TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 19[illegible]

No. 252

MRS. I. E. WILLIAMS, INDIVIDUALLY AND NATURAL TUTRIX OF HER MINOR SON, JOHN EARL WILLIAMS, PETITIONER,

vs.

GREAT SOUTHERN LUMBER COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR CERTIORARI FILED [illegible], 19[illegible]

CERTIORARI GRANTED [illegible], 19[illegible]

(32,686)

(32,695)

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UNITED STATES OF AMERICA.

DISTRICT COURT OF THE UNITED STATES, EASTERN DISTRICT OF LOUISIANA, NEW ORLEANS DIVISION.

MRS. L. E. WILLIAMS, ETC.,

versus No. 16,377

GREAT SOUTHERN LUMBER CO. ET ALS.

Appearances:-

Messrs. Farrar, Goldberg & Dufour, Ott & Johnson, and B. M. Miller and B. D. Talley, Esqs., Attorneys for Great Southern Lumber Co., et als., Plaintiffs in Error.

Messrs. A. T. Higgins, Max M. Schaumburger, Hiddleston Kenner, M. I. Varnado, Ponder & Ponder, and B. B. Howard, attorneys for Mrs. L. E. Williams, Defendant in Error.

WRIT OF ERROR to the District Court of the United States for the Eastern District of Louisiana, from the United States Circuit Court of Appeals for the Fifth Circuit, returnable within 30 days from the 28th day of May, 1926, at the City of New Orleans, La.

Extensions granted by the Honorable the United States Circuit Court of Appeals for the Fifth Circuit, bringing the return day up to and including the 30th day of August, 1926.

TRANSCRIPT OF RECORD.

2 PETITION.

Filed Nov. 6, 1920.

To the Honorable the United States District Court, Eastern District of Louisiana, New Orleans Division, holding Sessions in and for the said States, District and Division sitting at New Orleans, Louisiana.

The petition of Mrs. L. E. Williams, a resident of the City of New Orleans, Louisiana, acting for herself, individually and for her minor son John Earl Williams, aged 8 years issue of her marriage with the late L. E. Williams, deceased with respect represents:

1.

That she is a resident of the City of New Orleans, and that her minor son age eight lives with her, the surviving parent, and is the only heir of the late L. E. Williams, deceased, and that she is entitled to represent him as such surviving parent and if necessary the Court can order and appoint her tutrix ad hoc to specially represent him for the purposes of this suit.

2.

That the Great Southern Lumber Company is a foreign Corporation, chartered under the laws of Pennsylvania, with its domicile in said State, but is doing a general saw mill business at Bogalusa, Louisiana, situated and located in the Parish of Washington, and within the territorial limits of your District and Divison, with its States designated domicile at Bogalusa, Louisiana, and that W. H. Sullivan is the designated agent upon whom service shall be made as provided by law.

3.

She avers diversity of citizenship, and that the acts hereinafter complained of having been commited [committed] within the territorial jurisdiction of your Honorable Court.

4.

This suit is brought as a suit at law, and therefore brought within the rules of States Practice as distinguished from a bill of equity.

3 5.

That your Court has the proper venue to try and hear this suit.

6.

That the amount hereinafter claimed is far in excess of three thousand dollars, and therefore your Honorable Court has full and complete jurisdiction.

7.

She avers and shows that said Company is legally and justly indebted unto her and her minor son in the full sum of Fifty Thousand Dollars, with 5% interest hereon for this, to-wit: that on the 22nd day of November 1919 her said husband L. E. Williams, who was her only means of support, and also the only means of support of his small minor son, was murdered in cold blood by the agents and employees of the Great Southern Lumber Company. That while her husband was engaged

in business without any wrong act on his part the agents and employees of the Great Southern Lumber caused to be blown the siren whistle, the property of the Great Southern Lumber Company as a signal for the gathering of the murderous strong arm employees and agents of said Company and without any warning whatever to her deceased husband a mob of some One Hundred and Fifty armed men composed largely of the employees and agents of said Company and led by the notorious W. C. Magee and followed by Paul LeBlanc, Jules LeBlanc, John Whittington, Nish Jenkins and other employees and agents of the said Company rushed down to your petitioner's husband's place of business and there without just cause or excuse shot her husband to death. That said Company keeps employed a bunch of man killers, known as the strong arm bunch of the Great Southern Lumber Company, under the pretext of being labor agents, watchmen and guards, when in truth and in fact their principal occupation is to terrorize, unmercifully beat up and run people out of Bogalusa, and if the said Company deems it necessary to kell [kill] they are expected to and do the killing. That the so called agents and employees of the said Company acted within the scope of their employment as shown by their previous acts and by their previous conduct. That this death was there-
4 fore caused by the wrongful acts of the said Company, its wrongful and tortious acts of its agents, employees and servants; in this the said Company has no right to employ a bunch of man killers and set in motion a dangerous agency, and the said Company had no right to have blown the death signal for the murder of her husband and the said Company is responsible for the unlawful and tortious acts of its agents and employees, acting within any reasonable scope of employment.

8.

That in said mob were persons known as the so called loyalty league, practically all of whom were deceived and brought into the killing without any knowledge or intent to kill and murder that the deception was all carefully planned and executed by the agents and employees of said company, and the siren whistle was blown by the agents and employees of said Company, in order to try to give respectibility to the coid blood murders as well as protection to said Company, its agents and employees on account of the influence and relationship of the individual member thereof.

9.

That her husband was without blame, was in the pursuit of his lawful business, in his place of business, and would not have been murdered had it not been for the agents and employees of the said Company and their wrongful and tortious acts, and that her husband was murdered solely because the said Company wanted to destroy organized labor and discriminate against them in violation of the law and for the purpose of dominating said labor as to make them mere peons and serfs.

10.

That the said Company cannot deny its responsibility for the acts of the strong arm bunch because it has constantly kept employed such a bunch acting in this manner ever since it began business in Washington Parish, and the acts of tyranny, violence and bloodshed caused by the said bunch of strong arm employees that said

Company cannot deny knowledge of their acts, in fact their acts are known practically all over the South, or your petitioner might say from Maine to California.

11.

That the said Company had no excuse and has no excuse to keep employed this bunch of man killers under the pretext of preserving and maintaining law and order because Bogalusa whose Mayor is the General Manager and Agent of said Company, had a chief of police and a large force to assist the chief, and that the Sheriff of Washington Parish had given him Sixty Seven Deputies, sworn in and acting as Deputy Sheriffs, who were not called upon to act in any manner that day or at any other time. That there was no threatened breach of the peace, in fact the Chief of Police and the Deputy Sheriffs in said town did not participate in this foul murder.

Wherefore she prays that the said Great Southern Lumber Company be cited according to law to answer the demands herein contained and that on trial had, that she do have judgment and recover of the said Company for herself, individually and for her said minor son the sole heir and dependence upon her said husband for her said husband for support the full sum of Fifty Thousand Dollars with 5% per annum interest thereon from judicial demand until paid and for all costs of this suit and for general relief, etc.,

(Signed) M. T. VARNADO,
PONDER & PONDER, Attorneys.

State of Louisiana,
Parish of Orleans.

I, Amos L. Ponder, Atty. for Mrs. L. E. Williams, Plaintiff in the foregoing petition do solemnly swear that all the allegations and averments contained therein are true to the best of my knowledge and belief, so help me God.

(Sgd.) AMOS L. PONDER.

Sworn to and subscribed before me this 6th day of Nov., 1920.

(Sgd.) H. J. CARTER,
(Seal) Clerk.

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6 EXCEPTION TO PETITION.

Filed Nov. 27, 1920.

(Title Omitted.)

Now into Court comes the defendant Great Southern Lumber Company, appearing specially for the purpose only of filing exception to the plaintiff's petition, and for exception thereto, says:

I.

That the plaintiff's petition discloses no right to maintain this suit against the defendant, either in her behalf individually or on behalf of her minor children named in said petition.

II.

Reserving the benefit of the foregoing exception, and in case only that the same is overruled, this defendant for further exception says plaintiff's petition discloses no cause of action against this defendant.

Wherefore, this defendant prays that plaintiff's petition and demand be dismissed at her costs.

(Sgd.) B. M. MILLER.

(Sgd.) FARRAR, GOLDBERG & DUFOUR, Attys.

We, the undersigned attorneys, certify that the foregoing exceptions are filed in good faith and not for delay.

(Sgd.) B. M. MILLER.

(Sgd.) ABRAHAM GOLDBERG.

7 HEARING OF EXCEPTIONS AND ORDER MAINTAINING SAME WITH LEAVE TO PLAINTIFF TO FILE AND AMENDED AND SUPPLEMENTAL PETITION WITHIN THIRTY DAYS.

Extract from the Minutes.

November Term, 1920.

New Orleans, Saturday, January 8th, 1921.

Court met pursuant to adjournment;

Present: Hon Rufus E. Foster, Judge.

(Title Omitted.)

This cause came on this day to heard upon the exceptions filed by the defendant to the petition of plaintiff herein;

Present: H. Generes Dufour and B. M. Miller, of counsel for defendant, exceptor,
Present; Amos L. Ponder, of Counsel for plaintiff in suit,
and was argued by counsel for the respective parties;

Whereupon, and on due consideration thereof, it is ordered by the Court that the said exceptions be and the same are hereby maintained, with leave to the plaintiff to file an amended petition within thirty days from this date.

8 AMENDED PETITION,

Filed Feb. 4th, 1921.

(Title Omitted.)

Amended Petition.

1. Now comes the plaintiff, complying with the ruling of this Honorable Court and avers that she has been duly qualified natural tutrix of her minor child, under the laws of Louisiana, and that she appears in this suit individually and as natural tutrix of her minor child.

7. Your petitioner, further complying with the ruling of this Honorable Court, moves to amend Article Seven so as to read as follows:

She avers and shows that said Company is legally and justly indebted unto her individually and as tutrix of her minor child in the full sum of Fifty Thousand Dollars ($50,000), with five per cent per annum interest thereon from judicial demand for this, to-wit: That on the 22nd day of November, 1919, her said husband, L. E. Williams, who was her only means of support, and also the only means of support of her minor child, was slain unlawfully and in cold blood, by the agents and employees of the Great Southern Lumber Company; that while her said husband was engaged in business, without any wrongful act on his part, the agents and employees of said company, had blown the siren whistle, the property of said company, for the gathering of a mob, which said mob comprised about one hundred and fifty persons, including a great number of the employees of said company, that the said whis-

tle was blown as the result of a deep laid conspiracy on the part of the agents, employees and officers of the said company, together with other persons to
9 unlawfully take your petitioner's husband's life. That the said company, acting through its officers, the assistant general manager, the superintendent and other agents and officers were anxious to rid Bogalusa of any members, and especially leaders of the Trades Council of the said town, and more especially those who took an active interest in organized labor affairs, and this conspiracy was formed for the sole purpose of destroying organized labor in said town, even though they had to kill to accomplish their purpose. That there was no occasion for the blowing of this siren whistle, because there was no disturbance, no riot, nor no necessity for it and it was done only in furtherance of the preconcerted plan of the officers and management of the said company. That the said company was the only person interested in the destruction of organized labor, and therefore the only person having the motive to kill and slay your petitioner's husband. That the said mob was composed largely of the agents and employees of the said company, and led by the notorious W. C. Magee, and followed by Paul LeBlanc, Jules LeBlanc, John Whittington, Nick Jenkins and other agents and employees of the said company without any warning whatever, or without any just cause or excuse, began to fire and then and there slew your petitioner's husband. That the said company had employed W. C. Magee and a band of other notorious characters known in Bogalusa as the "Strong Arm Bunch," and commonly called labor agents or other utility men, whose sole employment was for the purpose of terrorising [terrorizing], beating up and running people out of the said town. That these said agents were acting within the scope of their authority and their employment. That your petitioner's husband would not

have been slain had it not been for the employment of this desperate band of men, had it not been for the blowing of the whistle, and the signal for their gathering, which said whistle was the property of the Great Southern Lumber Company, and had it not been for the conspiracy of the officers and agents of the said company previously entered into. She avers further that the said company had caused a number of labor men to be arrested and tried for the harassment of the labor organizations, and having failed in that they then conspired to take their lives.

8. Your petitioner, complying with the orders of this Honorable Court moves to amend Article Eight so as to read as follows: That her said husband came to his death by the wrongful and tortious acts of the officers, agents and employees of said Company without just cause or excuse. That the said Company is liable in damages for the acts of its officers, agents and employees, acting within a reasonable scope of their employment, and are liable for the acts of their officers, agents and employees, conspiring for the purpose of taking human life, and even if the conspiracy could not be amply proven, yet the company would be responsible for the wrongful and tortious acts of its agents and employees, acting reasonably within the scope of their employment. That it was an agent of said company who blew the signal as a whistle and was under the control of the officers of the said company, it was an agent of the said company who led the mob and fired the first shot acting within the scope of his employment, followed by other agents and employees of the said company, who did all the shooting.

Respectfully,

(Sgd.) PONDER & PONDER,
M. T. VARNADO,
Attys.

I, Amos L. Ponder, one of the attorneys for plaintiff do solemnly swear that the plaintiff is absent from the city and that all the allegations of amended petition are true to the best of my knowledge and belief and from information received from Plff.

(Signed) AMOS L. PARDEE.
(Seal)

Sworn to and subscribed before me on this 4th day of Feby., 1921.

(Signed) H. J. LOISEL,
Deputy Clerk, U. S. District Court.

PROCESS AND RETURN ON AMENDED PETITION AND CITATION.

Filed Feb. 19, 1921.

11 Summons and Marshal's Return, omitted from the printed record.

* * * * * * * * *

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12 EXCEPTION TO SUPPLEMENTAL AND AMENDED PETITION.

(Title Omitted.)

Now comes the Great Southern Lumber Company, defendant herein, and for exception to the supplemental and amended petition herein filed, says:

I.

Exceptor hereby reserves the benefits and advantages of all exceptions heretofore filed and without in any manner waiving same, but on the contrary specially insisting thereon and particularly in so far as concern plaintiff's right to amend her said petition in view of the judgment of this Honorable Court heretofore sustaining the exceptions heretofore filed by this defendant to plaintiff's original petition.

II.

For further exception, this exceptor says that said supplemental and amended petition is too vague and indefinite to permit this defendant to safely and properly answer same.

III.

In the event the foregoing exception be overruled and, in that event only, for further exceptions, exceptor says that said supplemental and amended petition is multifarious and uncertain and particularly in that it seeks and attempts to set up and set forth different and distinct alleged causes of action and an alleged cause of action different from the alleged cause of action set forth in plaintiff's original petition.

IV.

In the event the foregoing exception be overruled, and in that event only, for further exception, exceptor says
13 that plaintiff's supplemental and amended petition sets forth no right or cause of action.

V.

In the event the foregoing exception be overruled, and in that event only, for further exception exceptor pleads and now interposes the prescription of one year under Article 2315 of the Revised Civil Code of Louisiana to plaintiff's right to bring and maintain this action as natural tutrix of her minor child, as alleged in said supplemental and amended petition and also against the cause of action set forth in plaintiff's supplemental and amended petition both in her own behalf individually and in behalf of her said minor child.

VI.

For further exception exceptor pleads and now interposes the prescription of one year as provided by Article 2315 of the Revised Civil Code in bar of plaintiff's alleged claim, demand and cause of action.

Wherefore exceptor prays that the foregoing exceptions may be sustained and plaintiff's petition dismissed at her cost, and

For all general and equitable relief.

(Signed) B. M. MILLER,
(Signed) FARRAR, GOLDBERG & DUFOUR,
Attys. for Exceptor.

The undersigned counsel for exceptors certify that the foregoing exceptions are in their opinion well founded in law and are not interposed for the purpose of delay.

(Sgd.) H. GENERES DUFOUR,
(Sgd.) ABRAHAM GOLDBERG.

14 HEARING OF EXCEPTIONS TO AMENDED PETITION AND ORDER OVERRULING SAME, TEN DAYS TO ANSWER.

Extract from the Minutes,

February Term, 1921.

New Orleans, Saturday, March 26th, 1921.

Court met pursuant to adjournment;

Present: Hon. Rufus E. Foster, Judge.

(Title Omitted.)

This cause came on this day to be heard upon the exceptions filed by defendant to the supplemental and amended petition of plaintiff herein;

Present: H. Generes Dufour and B. M. Miller, of counsel for Defendant and exceptor;

Present: Amos L. Ponder, of counsel for plaintiff in suit,

and was argued by counsel for the respective parties;

Whereupon, and on due consideration thereof, it is ordered by the Court that the said exceptions herein, be and the same are hereby overruled, and that the defendant be allowed fifteen days from this date in which to file its answer herein.

15 ANSWER OF GREAT SOUTHERN LUMBER CO.

Filed Apr. 19, 1921.

(Title Omitted.)

Now comes the defendant, Great Southern Lumber Company, reserving the benefit of all exceptions and pleas heretofore filed by it, and not waiving the same (and protesting that it is not legally required to answer the plaintiff's original petition, because defendant's exception thereto of no cause of action was sustained by the Court) for answer to the plaintiff's original and amended petition, says:

I.

This defendant denies the allegations of Article I of the original petition.

II.

This defendant admits the allegations of Article II of the original petition.

III.

This defendant denies the allegations of Article III of the original petition.

IV.

This defendant admits the allegations of Article IV of the original petition.

V.

This defendant denies the allegations of Article V of the original petition.

VI.

This defendant denies the allegations of Article VI of the original petition.

16 VII.

Answering Article VII of the original petition, this defendant denies each and every allegation thereof, and, for further answer to said Article VII, says it will more fully answer the same in its answer to Article VII of the amended petition.

VIII.

This defendant denies the allegations of Article VIII of the original petition.

IX.

This defendant denies the allegations of Article IX of the original petition.

X.

This defendant denies the allegations of Article X oi the original petition.

XI.

Answering Article XI of the original petition, this defendant says it admist [admits] that the Chief of Police of the City of Bogalusa had a large force to assist him,

and it admits that the Sheriff of Washington Parish had appointed a large number of Deputy Sheriffs to assist in maintaining order in said City of Bogalusa, which Deputy Sheriffs defendant admits were duly sworn and acting as such, under laws of Louisiana; but defendant denies that such Deputy Sheriffs were not called upon to act in any manner on the day mentioned in the petition, or at any other time, and, on the contrary, defendant alleges that plaintiff's husband was violating the peace at the time he was shot and killed, and that plaintiff's husband was shot and killed by a duly appointed and qualified peace officers of the City of Bogalusa and Parish of Washington, while he was unlawfully resisting such peace officers in attempting to serve warrants which had been legally issued by the City Court of the City of Bogalusa for the arrest of Sol Dacus, J. P. Bouchillon and
16½ S. J. O'Rourke, and after plaintiff's husband and said Bouchillon and O'Rourke had fired upon such police officers and deputy sheriffs while they were attempting to serve such warrants. Defendant admits that the Chief of Police and the deputy sheriffs in said city did not participate in a foul murder. And defendant denies each and every allegation of said Article XI not above specifically admitted.

And for answer to the plaintiff's amended petition, this defendant says:

XII.

Defendant denies the allegations of Article I of said amended petition.

XIII.

For answer to Article VII of the plaintiff's amended petition this defendant denies each and every allegation thereof, and, for fufther [further] answer to said Article

VII of the amended petition and to Article VII of the original petition, this defendant says:

On the 21st day of November, 1919, an affidavit was made and sworn to before the City Court of the City of Bogalusa, charging one Sol Dacus, a negro, with being a dangerous and suspicious character, in violation of an Ordinance of said City; a warrant for the arrest of said Sol Dacus was issued by said City Court and was delivered to a police officer of said City, to be served on said Dacus. One or more of the police officers of said city attempted to serve such warrant but were unable to find said Dacus. On the morning of the 22nd day of November 1919, one J. P. Bouchillon and one S. J. O'Rourke, armed with guns, together with said Sol Dacus, appeared upon a much frequented public street of the City of Bo-
17 galusa, and paraded along said street with said Sol Dacus between them, loudly announcing and proclaiming that said Dacus should not be arrested. The acts and statements of said Bouchillon and O'Rourke constituted a breach of the peace, were calculated to excite and produce animosity and conflict between the white people and the colored people of Bogalusa, and to alarm numerous citizens, some of whom notified the Police Department of said City of the acts and conduct of said Bouchillon and O'Rourke and requested that they be arrested and restrained from further violating the peace. Whereupon, an affidavit was made by a citizen and property owner of the city before the City Court of said city, charging said Bouchillon and O'Rourke with disturbing the peace in said city and warrants were duly issued by said Court and were delivered to the police officers of said city for service and execution.

Said Bouchillon, said O'Rourke and said Sol Dacus, together with the plaintiff's husband, and one Jim Williams and one Tom Gaines, and various other persons, some of whom had recently been convicted of disturbing the peace in said City, armed themselves with firearms and met and congregated at the place of business of the plaintiff's husband, in said City of Bogalusa, for the purpose as defendant believes and charges, of resisting any attempt by the peace officers of the city to arrest said Dacus or said Bouchillon or said O'Rourke under said warrants.

Defendant avers that its mill whistle was and is ordinarily blown for the purpose of notifying its employees of the time to begin or cease their work, but that, for the past five or six years and at this time the City of Bogalusa has had and has the privilege to have said whistle blown as a fire alarm or signal and had during that time and still has the use of said mill whistle for
18 such purpose.

For some time prior to the date allegde in the petition various persons had unlawfully assembled in said City of Bogalusa, had threatened to commit, and had committed, breaches of the peace, and had trespassed upon and made threats to destroy defendant's property. Defendant had applied to the authorities of said City for protection and the Department of Public Safety of said city had taken measures to protect defendant's property and to prevent and disperse unlawful assemblies, and, to that end, had taken control of defendant's mill whistle and arranged to have such whistle blown as a signal for the peaceable citizens of the city to assemble whenever it became necessary to repress violence and to disperse unlawful assemblies and mobs. On several occasions prior to the date mentioned in the petition, the police authorities of said city had caused said mill whistle to be blown

for the purpose of calling together the police force of said city and the law abiding citizens thereof to prevent breaches of the public peace and unlawful assemblies in said city.

On the day mentioned in the petition, and after petitioner's husband and said Bouchillon, O'Rourke and Dacus and the other persons above referred to had armed themselves and assembled, as above alleged, the police authorities of said city caused defendant's said mill whistle to be blown for the purpose of summoning the police officers and the deputy sheriffs in said city to assist in serving said warrants upon and arresting said Bouchillon, O'Rourke and Dacus. A number of police officers of said city and deputy sheriffs and some other citizens assembled in response to the signal given by the blowing of such whistle, and accompanied the police officer, who was charged with the execution of such warrants, to the place where the plaintiff's husband and said Bou-
19 chillon, O'Rourke and Dacus and others were congregated, and notified them that they had warrants for their arrest, when plaintiff's husband and said Bouchillon and O'Rourke immediately opened fire upon said officers.

This defendant alleges that it did not cause its said mill whistle to be blown at the time or on the occasion above stated, as alleged in the plaintiff's petition, and that it knew nothing of the said actions and statements of said Bouchillon, O'Rourke and Dacus, or of the issuing of warrants for their arrest, or of the attempt to arrest them, or of the shooting of the plaintiff's husband until after all said things had occurred.

XIV.

This defendant denies all the allegations of fact and conclusions of law stated in Article VIII of the amended petition.

XV.

Except as herein otherwise admitted, this defendant denies each and every allegation of the plaintiff's original and amended petitions.

Wherefore, defendant prays that plaintiff's petition and demand be dismissed and rejected, with costs; and prays for all general relief.

(Sgd.) B. M. MILLER,
(Sgd.) OTT & JOHNSON,
(Sgd.) FARRAR, GOLDBERG & DUFOUR,
Attorneys for Defendant,

Copy.

20 United States of America,
State of Louisiana,
Parish of Washington.

W. H. Sullivan, being duly sworn, says he is vice President of the defendant, Great Southern Lumber Company, and makes this affidavit in its behalf.

That he has read the foregoing answer, and knows the contents thereof, and that all the allegations thereof are true, except such as are alleged to be stated on information and belief, and as to those allegations, he believes them to be true.

(Signed) W. H. SULLIVAN,

Sworn to and subscribed before me, this 13th day of April, 1921.

(Seal) WILLIAM E. SELDNER,
Notary Public.

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21 MOTION TO DISMISS.

Filed Mar. 31, 1922.

(Title Omitted.)

On motion of Mrs. L. E. Williams, Plaintiff, through Ponder & Ponder, M. I. Varnado and Louis H. Burns, Attorneys, and on suggesting to the Court that an amicable settlement has been made in the above entitled matter and that plaintiff no longer desires to prosecute this cause:

It is ordered: that this cause be dismissed at plaintiff's costs.

New Orleans, La., March 31, 1922.

(Signed) RUFUS E. FOSTER, Judge.
PONDER & PONDER,
M. I VARNADO,
L. H. BURNS,
Attys. for Pltff.

22 RULE OF PLAINTIFF TO SHOW CAUSE WHY CASE SHOULD NOT BE RETURNED TO THE DOCKET.

Filed April 27th, 1922.

(Title Omitted.)

The petition of Mrs. L. E. Willaims, individually and as Tutrix to her minor son, plaintiff in the above entitled cause, by way of Rule, with respect show that Mr. Louis Burns, Ponder and Ponder, and Vernado, formerly her Counsel of Record herein.

1st.

Have without her authority compromised this cause with the Defendants, both for her account and that of her Minor Son and have said suit dismissed from the Docket.

2nd.

That said Compromise and dismissal of said suit is without her authority either for herself individually, or for her as Tutrix to her minor son.

3rd.

That no permission was granted to her by Court to compromise the interest in this suit of her said minor son, which is required by law. That she desires that this suit be returned to the Docket and regularly tried and to that end she desires an order, returning this suit to the Docket.

It is therefore ordered that the Great Southern Lumber Company Defendant be and it is hereby ordered show cause why said cause should not be returned to the docket and proceeded regularly with. That this rule be made returnable on .... the .... day of April, 1922, at Ten thirty A. M.

(Signed) B. B. HOWARD,
Atty for Petitioner.

ORDER.

Let the Great Southern Lumber Company, Defendant show cause why on the 13th day of May, 1922, at 11:00 A. M. the order dismissing this case should not be recinded and this suit returned to the Docket for due hearing and trial.

(Signed) RUFUS E. FOSTER, Judge,

New Orleans, Apr. 27/1922.

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23 ANSWER TO RULE.

Filed May 27, 1922.

(Title Omitted.)

Now into Court comes Great Southern Lumber Company, through undersigned counsel, and for answer to the rule issued herein on the 27th day of April, 1922, avers and says:

I.

It denies that plaintiff's attorneys, Louis H. Burns, Ponder & Ponder, and M. I. Varnado, settled and compromised this cause without the authority of the plaintiff.

II.

It denies that the compromise and the dismissal of the said cause was without the authority of the plaintiff.

III.

It denies that the plaintiff was ever qualified as Tutrix of her minor son, and avers that if she was so qualified any claim of the minor son was prescribed at the time of the filing of the alleged suit on behalf of her minor son.

IV.

Further answering, defendant says that this suit and also the suit entitled Mrs. J. P. Bouchillon versus Great Southern Lumber Company, No. 16,376 of the Docket of this Court and the suit entitled Mrs. S. J. O'Rourke, versus Great Southern Lumber Company, No. 16,375 of the Docket of this Court, and which suits were brought on the same alleged cause of action set out in this suit, were settled and compromised, and were dismissed by the attorneys of record for the plaintiffs after full consultation and a thorough understanding between the plaintiff herein and the plaintiffs in said other suits and their attorneys of record, and with the full knowledge and consent

of all of said plaintiffs, including plaintiff herein. This defendant says that if [it] paid the amount of the settlement and compromise agreed on by the parties
24 to said suits, in good faith and in reliance upon the settlement and compromise which had been agreed on. Defendant says that the plaintiff herein accepted the amount paid to her in compromise of this suit, and has never returned or offered to return the amount so paid in compromise.

Wherefore, The Great Southern Lumber Company prays that said rule be dismissed at plaintiff's cost.

(Signed) B. M. MILLER,

(Signed) FARRAR, GOLDBERG & DUFOUR,

Attys. for the Great Southern Lumber Co.

25 **HEARING ON RULE OF PLAINTIFF AND ORDER MAKING SAME ABSOLUTE AND REINSTATING SAME CASE ON DOCKET.**

Extract from the Minutes.

May Term, 1922.

New Orleans, Saturday, May 27th, 1922.

Court met pursuant to adjournment.

Present: Hon. Rufus E. Foster, Judge.

(Title Omitted.)

This cause came on this day to be heard upon the rule filed by the plaintiff herein and taken upon the defendant to show cause why this cause should not be returned to the docket.

Present: B. B. Howard, Attorney for Plaintiff, mover.
Present: B. M. Miller, Alfred C. Kammer and Louis H. Burns, Defendant in Rule.

Whereupon, after hearing the answer filed by defendant to said rule and arguments of counsel for the respective parties, it was ordered by the Court that the said rule of plaintiff be and the same is hereby made absolute, and accordingly, that this cause be reinstated on the docket.

26 SECOND AMENDED AND SUPPLEMENTAL PETITION.

Filed Oct. 13, 1924.

(Title Omitted.)

To the Hon. Rufus E. Foster, Judge of the United States District Court for the Eastern District of Louisiana:

The supplemental and amended petition of Mrs. Lena E. Williams, individually and as tutrix of her minor child, with respect represents:

1.

That petitioner individually and as natural tutrix of her minor child filed in the above numbered and entitled case her original petition wherein it was set forth and alleged that the Great Southern Lumber Company was liable to petitioner in the full sum of fifty thousand dollars ($50,000.00) as damages and compensation for the loss and injury inflicted upon her and her said minor child through the murder of her husband and father of her said minor child on the 22nd day of November, 1919, by the agents and employes of the said Great Southern Lumber Company.

2.

That among those individuals who were in the mob that came to the premises occupied by Lem Williams on the said 22nd day of November, 1919, and shot him down in cold blood, were J. B. Lindsley, Harold H. Wilcox, Dave Bein, and Louis Levert, all residents and domiciled

in the parish of Washington, State of Louisiana, and Louis F. Guerre, residing and domiciled in the Parish of Orleans, State of Louisiana.

3.

That the said J. B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert, and Louis F. Guerre, as the agents, representatives, and employees of the said Great Southern Lumber Company, and acting under the instructions and by direction of the said Great Southern Lumber Co. and the officers of said Company, preceeded to the residence of petitioner's said husband, and the father of petitioner's minor child, in Bogalusa on the said 22nd day of November, 1919, armed with guns, rifles, pistols, and other fire arms, and calling petitioner's said husband to the door of his office shot him dead.

27

4.

That the said J. B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert, and Louis F. Guerre, having all actively and individually assisted, joined, and conspired each with the other and all together with the said Great Southern Lumber Company, and with the officials of the said Company, to kill and murder petitioner's husband, Lem Williams, as set forth and described in the original petition filed herein, are all liable jointly and in solido to petitioner for the damage and injury inflicted upon her and upon her said minor child in the said amount of $50,000.00, and the said J B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert, Louis F. Guerre, and the Great Southern Lumber Co. jointly and in solido are bound and obligated to pay to petitioner for her individual

benefit and as tutrix of her said minor child as compensation for the death of her said husband and father of her said minor child in the said sum of $50,000.00.

5.

That the said J. B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert, and Louis F. Guerre, being liable to petitioner individually and as tutrix of her minor child jointly and in solido with the said Great Southern Lumber Company for the damages resulting from the death of petitioner's said husband in the said sum of $50,000.00, and are jointly and in solido with the said Great Southern Lumber Company obligated to pay to petitioner individually and as natural tutrix of her said minor child the said sum of $50,000.00, as compensation for the damage and injury inflicted upon petitioner and on her said minor child by the murder of her said husband, the said J. B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert, and Louis F. Guerre, should be made parties to this suit by service and citation as the law requires, and judgment rendered against them jointly and in solido with the said Great Southern Lumber Company for said amount of $50,000.00.

6.

That petitioner's full name is Lena E. Williams, widow of the late Lem Williams, and that she is the duly appointed and qualified natural tutrix of her minor child, John Earl Williams. That petitioner was legally married to the said deceased, Lem Williams, and her said minor child is the legitimate offspring of her said marriage with him.

28 Wherefore the premises considered petitioner prays that the filing of this amended and supplemental petition be allowed by the Court, and that J. B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert, and Louis F. Guerre, be made parties to this suit and be served with certified copies of this amended and supplemental petition, and of the amended and supplemental petition previously filed and allowed, and of the original petition of plaintiff, and that they be cited to appear and answer same. That the Great Southern Lumber Company, the defendant herein, be also served with a certified copy of this amended and supplemental petition with a citation to appear and answer same.

That reiterating the prayer of plaintiff's original petition filed herein, petition prays for judgment in her favor individually and as natural tutrix of her minor child, John Earl Williams, and against the Great Southern Lumber Company, J. B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert, and Louis F. Guerre, jointly and in solido, for the full sum of fifty thousand dollars ($50,000.00) with legal interest thereon from judicial demand until paid, and for all costs, and for all necessary orders and for general relief.

(Sgd.) HIDDLESTON KENNER,
Atty. for Petitioner.

Before me the undersigned authority personally came and appeared, Hiddleston Kenner, who having been duly sworn did depose and say: That he has been employed to prosecute this suit, and that the facts and allegations of the foregoing amended and supplemental petition are true and correct, to the best of his knowledge, information, and belief.

(Sgd.) HIDDLESTON KENNER.

Sworn to and subscribed before me this 13th day of October, 1924.

(Sgd.) FRANK J. GRUNEWALD,
Not. Pub.

(Seal)

ORDER.

Let the foregoing amended and supplemental petition be filed and J. B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert, and Louis F. Guerre be made parties defendant to this suit. Let a certified copy of plaintiff's original petition, of the amended and supplemental petition heretofore allowed and filed by the plaintiff, of the foregoing amended and supplemental petition be served on the said J. B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert, and Louis F. Guerre, and that they be cited to appear and answer same. Let a certified copy of the foregoing amended and supplemental petition be served upon the Great Southern Lumber Company and it be cited to appear and answer same. All as herein prayed for and as the law provides.

(Sgd.) RUFUS E. FOSTER,
Judge.

New Orleans, Oct. 13, 1924.

29 EXCEPTION TO SUPPLEMENTAL PETITION.

Filed Nov. 6, 1924.

(Title Omitted.)

Exception on Part of J. B. Lindsley, Harold H. Wilcox, Dave Beinn, Louis Levert and Louis F. Guerre.

Now into Court, through their undersigned counsel, comes J. B. Lindsley, Harold H. Wilcox, Dave Beinn, Louis Levert and Louis F. Guerre, appearing herein simply and solely for the purpose of filing this exception, to the supplemental petition herein filed, which purports to make exceptors parties defendants, and for exception to the demands of plaintiff, shows:

First.

That the original petition filed by the plaintiff, did not state a cause of action under the laws of the State of Louisiana, and, as such could not conceivably be amended.

Second.

That the original and supplemental petitions first filed by this plaintiff did not state a cause of action against the then defendant as to either the purported widow or the purported child claiming damages, and, therefore, said petitions cannot be amended—there being no cause with sufficient standing before the Court to be amended.

Third.

That in neither the original petition, nor the first supplemental petition, is there a cause of action stated as to the purported minor child plaintiff, and as to it, there can be no amendment.

Fourth.

That these defendants therefore plead the prescription of one year as against this purported second supplemental petition, since it attempts to state a cause of action, now, four years and eleven months after the damages complained of were caused, and, now for the first time stating a cause of action against any defendants at all.

30 Wherefore, exceptors pray that the purported second supplemental petition, which purports to make exceptors parties defendant to the above suit, be dismissed at plaintiff's costs.

(Sgd.) B. D. TALLEY,

(Sgd.) JNO. JOHNSON,

(Sgd.) MILLER & BURNS,

By B. D. TALLEY,

Attorneys for Exceptors.

We, B D. Talley, Jess Johnson, and Miller & Burns, attorneys for exceptors, hereby certify that the above exception is filed in good faith and not for purposes of delay.

(Sgd.) B. D. TALLEY,

(Sgd.) JESS JOHNSON,

(Sgd.) MILLER & BURNS,

By B. D. TALLEY,

Attorneys for Exceptors.

31 HEARING OF EXCEPTIONS TO SUPPLEMENTAL PETITION AND ORDER OVERRULING SAME.

Extract from the Minutes.

November Term, 1924.

New Orleans, Saturday, November 29th, 1924.

Court met pursuant to adjournment.

Present: Hon. Rufus E. Foster, Judge.

Present: Hon. Ben. C. Dawkins, Judge.

Proceedings Before Hon. Rufus E. Foster, District Judge.

(Title Omitted.)

This cause came on this day to be heard upon the exceptions to the supplemental petition filed herein:

Present: H. M. Miller and B. D. Talley, of counsel for exceptors.

Present: Hiddleston Kenner, attorney for the petitioner.

Whereupon, after hearing the said exceptions and arguments of counsel for the respective parties and on due consideration thereof:

It is ordered by the Court that the said exceptions herein be and the same are hereby overruled.

32 ANSWER OF GREAT SOUTHERN LUMBER CO. TO SECOND SUPPLEMENTAL AND AMENDED PETITION.

Filed Nov. 18, 1924.

(Title Omitted.)

Answer of Great Southern Lumber Company to the Second Supplemental and Amended Petition of Mrs. L. E. Williams, Individually and as Tutrix of Her Minor Child.

Now comes the defendant, Great Southern Lumber Company, reserving the benefit of all of the exceptions and pleas heretofore filed by it, and not waiving the same, but, on the contrary, specially insisting thereon, for answer to the second supplemental and amended petition herein filed says:

I.

Respondent denies the allegations of Article 1 of said petition.

II.

Respondent denies the allegations of Article 2 of said petition.

III.

Respondent denies the allegations of Article 3 of said petition, except that respondent admits that Louis F. Guerre, one of the parties in said article named, was an employee of this respondent at the time referred to in said petition.

IV.

Respondent denies the allegations of Article 4 of said petition.

V.

Respondent denies the allegations of Article 5 of said petition.

VI.

Respondent is not informed as to the matters and things set forth in Article 6 of said petition, and, therefore, calls for proof of same.

VII.

Respondent reiterates the allegations of its answer heretofore filed to the original and first supple-
33 mental and amended petitions.

Wherefore, respondent prays that plaintiff's said petition may be dismissed and plaintiff's claim rejected with costs, and

For all general and equitable relief.

(Sgd.) DUFOUR, GOLDBERG & KAMMER,
(Sgd.) B. M. MILLER,
(Sgd.) DELOS R. JOHNSON,
Attys. for Respondent.

34 United States of America,
State of Louisiana,
Parish of Washington.

W. H. Sullivan, being duly sworn, says he is Vice-President of the defentant, Great Southern Lumber Company, and makes this affidavit in its behalf.

That he has read the foregoing answer, and knows the contents thereof, and that all the allegations thereof are true, except such as are alleged to be stated on information and belief and as to those allegations, he believes them to be true.

(Sgd.) W. H. SULLIVAN.

Sworn to and subscribed before me this 15 day of November, 1924.

(Sgd.) D. T. CUSHING,

(Seal) Notary Public.

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35 ANSWER OF LOUIS F. GUERRE.

Filed Nov. 18, 1924.

(Title Omitted.)

Answer of Louis F. Guerre to the Original and First and Second Supplemental and Amended Petitions of Mrs. L. E. Williams, Individually and as Tutrix of Her Minor Child.

Now comes into Court the defendant, Louis F. Guerre, reserving the benefit of the exceptions hereto filed by him and for answer to the original and first and second supplemental and amended petitions of Mrs. L. E. Williams, individually and as natural tutrix of her minor child, says:

I

This defendant was made party to this suit and first served with process, pursuant to an order made herein on October 13, 1924, entered on the amended and supple-

mental petition filed herein on said date by the plaintiff, wherein it was ordered that said second supplemental and amended petition and the original petition and the first supplemental and amended petitions be served on this defendant.

II.

This defendant now pleads the prescription of one (1) year, and says that plaintiff's alleged claim, as set forth in said original petition and supplemental and amended petitions, is barred by the prescription of one (1) year, and respondent interposes to said alleged claim the prescription of one (1) year provided for by Article 2315 of the Revised Civil Code of Louisiana.

III.

Further answering, respondent denies the allegations of Article 1 of the original petition.

IV.

Respondent has no knowledge or information on the matters set forth in Article 2 of plaintiff's original petition, and, therefore, denies the same.

V.

Respondent denies the allegations of Article 3 of the original petition.

36

VI.

Answering Article 4, respondent admits the allegations of Article 4 of the original petition.

VII.

Respondent denies the allegations of Article 5 of the original petition.

VIII.

Respondent denies the allegations of Article 6 of the original petition.

IX.

Respondent denies the allegations of Article 7 of the original petition.

X.

Respondent denies the allegations of Article 8 of the original petition.

XI.

Respondent denies the allegations of Article 9 of the original petition.

XII.

Respondent denies the allegations of Article 10 of the original petition.

XIII.

Respondent denies the allegations of Article 1 of the first supplemental and amended petition.

XIV.

Respondent denies the allegations of Article 7 of the first supplemental and amended petition.

XV.

Respondent denies all of the allegations of fact and conclusions of law set forth in Article 8 of the first supplemental and amended petition.

XVI.

Respondent denies the allegations of Article 1 of the second supplemental and amended petition.

37 XVII.

Respondent denies the allegations of Article 2 of the second supplemental and amended petition, except that respondent admits that at the date referred to in said article he was domiciled in the Parish of Orleans, State of Louisiana.

XVIII.

Respondent admits that he was employed by the Great Southern Lumber Company at its Bogalusa plant on the date referred to in said petition, but respondent denies all the other allegations of said Article 3 of said petition.

XIX.

Respondent denies the allegations of Article 4 of said second supplemental and amended petition.

XX.

Respondent denies the allegations of Article 5 of said second supplemental and amended petition.

XXI.

Respondent is not advised as to the matters set forth in Article 6 of said second Supplemental and amended petition, and, therefore, calls for proof thereof.

Wherefore, respondent prays to be hence dismissed with costs, and

For all general and equitable relief.

(Signed) DUFOUR, GOLDBERG & KAMMER,

(Signed) B. M. MILLER,
Attys. for Defendant.

38 United States of America,
State of Louisiana,
Parish of Orleans.

Louis F. Guerre, being duly sworn, says he is a defendant in the above numbered and entitled cause; that he has read the foregoing answer, and knows the contents thereof, and that all the allegations therein contained are true and correct.

(Sgd.) L. F. GUERRE.

Sworn to and subscribed before me, this 15 day of November, 1924.

(Sgd.) J. ZACH SPEARING,
(Seal) Not. Pub.

39

ANSWER.

Filed Dec. 13, 1924.

(Title Omitted.)

Answer.

Reserving Benefit of Exceptions.

Now into Court through their undersigned counsel comes the defendants, J. B. Lindsley, Harold H. Wilcox, Dave Bienn, and Louis Levert and without in any manner waiving or abandoning the exceptions heretofore filed but with specific reservation of the said exceptions and all rights thereunder and for answer to the demands of the plaintiff to its original, first, and second supplemental petitions, shows as follows:

Answering original petition, first, they show:

First.

Article One of the original petition is specifically and specially denied, respondents not having sufficient information to form a belief as to the allegations therein.

Second.

Article Two does not concern respondents and they have no knowledge or information about it, and it is therefore, denied.

Third.

Article Three, because of a lack of sufficient information to form a belief on the part of respondents is likewise denied.

Fourth.

Article Fourth, because of a lack of sufficient information to form a belief on the part of respondents is likewise denied.

Fifth.

Article Fifth, because of a lack of sufficient information to form a belief on the part of respondents is likewise denied.

40 Sixth.

Article Sixth, because of a lack of sufficient information to form a belief on the part of respondents is likewise denied.

Seventh.

Article Seventh, is specifically and specially and every other way denied in its entirety, and, by sentence and part of sentence, all specially denied, respondents reserving the right to go into further detail after answering the articles in their regular number.

Eighth.

Article Eighth, is specifically and specially as a whole, as a sentence, a part of sentence and as a paragraph denied.

Ninth.

Article Ninth, is specifically and specially as a whole, as a sentence, a part of sentence and as a paragraph denied.

Tenth.

Article Tenth, is specifically and specially as a whole, as a sentence, a part of sentence and as a paragraph denied.

Eleventh.

Article Eleventh, is specially and specifically as a whole, as a part of sentence, as a sentence and as a paragraph denied.

And now for answer to the purported amended petition, first filed, and with specific reservation of all exceptions heretofore filed and for answer to article One they show:

First.

Article One of the purported amended petition is denied specifically denying that she has even gotten into Court as required by law.

41 Second.

For answer to Article Seven of the plaintiff's amended petition, these defendants deny each and every allegation thereof, and, for further answer to said Article Seven of the amended petition, and to Article Seven of the original petition, these defendants say:

That on the 21st day of November, 1919, an affidavit was made and sworn to before the City Court of the City of Bogalusa charging one, Sol Dacus, a negro, with being a dangerous and suspicious character, in violation of an Ordinance of said city, and a warrant for the arrest of said Sol Dacus was issued by said City Court and was delivered to a police officer of said City, to be served on said Dacus. That one or more of the police officers of said city attempted to serve such warrant, but were unable to find said Dacus. That on the morning of the 22nd day of November, 1919, one, J. P. Bouchillon, and one S. J. O'Rourke, armed with guns, together with said Sol Dacus, appeared upon a public and much frequented street of the City of Bogalusa, and paraded along said street, with said Sol Dacus between them, loudly announcing and proclaiming that said Dacus should not be arrested. That the acts and statements of said Bouchillon and O'Rourke constituted a breach of the peace, and were calculated to excite and produce animosity and conflict between the while [white] people and the colored people of Bogalusa, and their acts and statements were calculated to alarm and did alarm numerous citizens, some of whom notified the Police Department of the City of the acts and conduct of said Bouchillon and O'Rourke and requested that they be arrested and restrained from further violating the peace. That an affidavit was made by a citizen and property owner of the city before the City Court of said city, charging said Bouchillon and O'Rourke with disturbing the peace in said city, and a warrant was issued by said
42 Court charging them with such offense, and such warrant was delivered to the police officers of the city, for service.

That said Bouchillon and O'Rourke and said Sol Dacus, together with Lum Williams and Jim Williams and Tom Gaines, and a number of other persons, some

of whom had recently been convicted of disturbing the peace in said city, armed with firearms, met and congregated at the place of business of said Lum Williams, for the purpose as defendants believed, of resisting any attempt by the peace officers of the city to arrest said Dacus or said Bouchillon or said O'Rourke.

Defendants aver that the mill whistle of the Great Southern Lumber Company is, ordinarily, blown for the purpose of notifying its employees of the time to begin or cease their work; but that for the past five or six years the City of Bogalusa has had the right to have said whistle blown whenever a fire occurred in the city, and has during that time, and still has, the use and control of said mill whistle for such purpose, and causes such whistle to be blown whenever a fire occurs in said City of Bogalusa.

That for some time prior to the date alleged in said petition, various persons had unlawfully assembled in said City of Bogalusa, and had threatened and committed breaches of the peace, and had trespassed upon and made threats to destroy the property of local industries, and the local industries had applied to the authorities of said city for protection, and the Department of Public Safety of said city had taken measures to protect all property, and to prevent and disperse unlawful assemblies, and to that end had taken control of the mill whistle of the Great Southern Lumber Company, and had arranged to have such whistle blown as a signal for the peaceable citizens of the City of
43 Bogalusa to assemble whenever it became necessary to repress violence and to disperse unlawful assemblies and mobs, and on several occasions prior to the date mentioned in the petition, the Police Authorities of said city had caused said whistle to be blown for the purpose of calling together the police forces of

said city and the law abiding citizens thereof, to repress breaches of the peace and unlawful assemblies in the city.

That on the day mentioned in the petition, and after said Bouchillon and said O'Rourke and said Dacus and the said Lum Williams and other persons above named and mentioned had armed themselves and has assembled together, as above alleged, the police authorities of said city caused said mill whistle to be blown, for the purpose of summoning the police officers of said city and deputy sheriffs and some other citizens assembled, in response to the signal given by the blowing of such whistle, and accompanied the police officers, who had such warrants, to the place where said Lum Williams, Bouchillon, O'Rourke and Dacus and others were congregated, and notified them that they had such warrants for their arrest, when said Lum Williams, Bouchillon and O'Rourke immediately open fire upon said officers.

Third.

Answering paragraph Eighth, respondents specifically and specially deny the entire paragraph, specifically and specially denying each and every sentence or part of sentence therein.

And now for answer to the 2nd supplemental petition the one filed on or about the 13th day of October, A. D. 1924, or the one on which the order is dated
44 October 13, 1924, but which does not show on the copy that it has ever been filed and with specific reservation of all exceptions heretofore filed respondents show:

First.

Answering paragraph One respondents specifically and specially and by each sentence and the paragraph in its entirety deny article One.

Second.

Answering paragraph Two respondents specifically, specially and by each sentence and the paragraph in its entirety deny article Two.

Third.

Answering paragraph Three respondents specifically, and specially and by each sentence and the paragraph in its entirety deny Article Three.

Fourth.

Answering paragraph Fourth respondents specifically, specially and by each sentence and the paragraph in its entirety deny Article Fourth.

Fifth.

Answering paragraph Fifth respondents specifically, specially and by each sentence and the paragraph in its entirety deny Article Five.

Sixth.

Answering paragraph Sixth, respondents specifically, specially and by each sentence and the paragraph in its entirety deny Article Six.

And now for further answer to the demand of the plaintiff, respondents show:

First.

That they are peaceable, law abiding citizens and have invested their money in Bogalusa, Louisiana, with the intention of making it their permanent home, and are rearing families there, and they take a pride in, and have a love for, their hometown, just like any other good American citizen and that immediately prior to the ocurrence set out in the plaintiff's petition said Lum Williams with the assistance of a National Organizer successfully organized, all, or practically all of the laboring men in Bogalusa into the different unions; and as was the custom of such unions began to make certain demands upon the parious [various] industries in Bogalusa.

Second.

Respondents further show that the business of the City of Bogalusa is prosperous or disastrous, as the industries there operate or clost [close] down respectively, and the citizens endeavor to keep business conditions good in the city in order that their business might be prosperous and their home and community life and surroundings happy.

Third.

Respondents further show that when the said Lum Williams as the chief leader of the various unions, colored and white, began to make demands upon the

industries the citizens endeavored to act as friends to bring about peace and harmony between the unions and the industries.

Fourth.

Respondents further show that the demands began to be so autocratic that they discontinued their friendly services of meditation and began to be alarmed about the condition of their business from a financial standpoint and the happiness of their homes and the development of their community.

46 Fifth.

Respondents further show that said L. E. Williams was considered one of the best specimens of physical men and fighter in the community, frequently engaged in wrestling matches and bouts and enjoyed physical combat, and his leadership of the union forces was dominated by physical force, rather than justice and right.

Sixth.

Respondents further show that on several occasions the said L. E. Williams and his agents and representatives would not work, and would not permit others, who wanted to work, to work for the industries in Bogalusa, Louisiana, and even called out, as a vindicative method of attack, such laborers as were working for the local industries assisting in the supply of electricity and water of the City of Bogalusa and its citizens, and, that, for some time, the City of Bogalusa had no street lights at night at all, and the citizens began to be alarmed for their safety and the safety of the community and of their property.

Seventh.

Respondents further show that when skilled men were brought into the City of Bogalusa to assist in the repair of local industries the said L. B. Williams with his associates demanded that they get back on the train and not get off in the City of Bogalusa, and created a disturbance at the depot itself in the presence of numerous citizens of Bogalusa for which disturbance the said Lum Williams and associates were prosecuted and convicted.

47

Eighth.

Respondents further show that on the morning of the occurrence set out in plaintiff's various petitions the said Lum Williams, as leader, of his associates, directed that said Bouchillon and O'Rourke go get Sol Dacus and that they did so parading him up Columbia Street, defying arrest, armed with shot guns

Ninth.

Respondents further show that there had been organized in the City of Bogalusa a Loyalty League for the purpose of assisting the contituted officers in enforcing the law, the purpose of which league, whose name was, "Self Preservation and Loyalty League," was for the preservation of the rights of people and their property and loyalty to a free Democratic American country, contradistinguished from the Bolshevistic and Autocratic tendencies fostered by the said Lum Williams.

Tenth.

Respondents further show that the said Dacus was brought by said O'Rourke and Bouchillon to the office of said Lum Williams after having been paraded up the main street of the City of Bogalusa with a public declaration that nobody could arrest that negro, they having pump shot guns when they made the declaration.

Eleventh.

Respondents further show that there was a previously existing warrant outstanding against Sol Dacus and that on that date, immediately, additional warrants were secured for the said Bouchillan and O'Rourke and the Self Preservation Loyalty League was regularly assembled and proceeded to the said office of said Lum Williams with said warrants, to arrest O'Rourke, Bouchillon and Dacus and that upon arrival there the parties
48 all of whom were duly qualified officers of the law, stated the purpose of their visit when they were met with a volley from the said office wherein the said Lum Williams was located, he, himself, stepping out of the office and shooting into the citizen officers, the first shot coming from the said Lum Williams and his associates, and, that, thereafter the shooting became general from both sides and the said Lum Williams was killed and one of the citizen officers was shot.

Twelfth.

Respondents further show that in accordance with the public defiance of law and officers of Bogalusa by the said Lum Williams and his associates, that the said Dacus could not be arrested, the said Lum Williams and his

associates had gathered together a regular arsenal; shot guns, rifles, pump guns, etc., which were in said building, where he kept his office, in his office.

Thirteenth.

Respondents further show that the said Lum Williams had become a menace to the peace, and happiness, and prosperity, and very life of the community, and, that the citizens were at times in fear of their lives, when they went in that vicinity and many of them avoided traveling in that vicinity at all because of the strained relations and charged atmosphere in that section.

Fourteenth.

Respondents further show that those people who were there acted as free American citizens in the protection of their homes and their lives when firing after they had been fired upon.

Fifteenth.

That the said Lum Williams, and, his associates, were setting up a little Bolshevistic Russia in Bogalusa, with headquarters at his office, from whence all orders went out to prevent honest men from coming to Bogalusa, Louisiana, to work, dictating who should and
49 who should not work, and, the wages they would have to get, etc.

Sixteenth.

That the rule of the said Lum Williams was Bolshevistic and Autocratic, and, contrary to the principles of the American Government, and, the said Self Preserva-

tion and Loyalty League was organized simply and solely for the Self Preservation of the free American citizens of Bogalusa, and, these loyal to Democratic American principles, as free men everywhere will always do to protect themselves.

Seventeenth.

That the said Lum Williams, and associates had become so powerful and autocratic, that they would have meetings of the Commission Council called, almost at will, and, by the press of large numbers and loud talking and threats, would turn the meeting into bombastic and bolshevistic meetings, taking the floor and making all kinds of unheard of demands and threats, against the local industries, and, private property, until finally the citizens, long suffering, and, patient, organized the Self Preservation and Loyalty League, for their protection, and, the protection of property rights in the city of Bogalusa, Louisiana, and began to assert their rights, guarding the men who wanted to work from assault, and, the office men and business men themselves, taking off their coats and firing the boilers of the local industries in order to furnish electric current and keep the city of Bogalusa and its citizens supplied with electric current and water supply, for the operations of its sewers, and use of its citizens.

Wherefore, respondents pray that the plaintiff's demands be dismissed and rejected with costs and for all general relief.

(Sgd.) BASCOM D. TALLEY,

Attorneys for Defendants.

50 State of Louisiana,
Parish of Washington.

L. E. Levert and H. H. Wilcox, two of the parties named defendants, being first duly sworn according to law, depose and say:

That they are two of the parties named as defendants in the last supplemental petition of the plaintiff, that they have read the above answer and that all the allegations therein contained are true and correct.

(Sgd.) H. H. WILCOX,
(Sgd.) L. E. LEVERT.

Sworn to and subscribed before me this 12 day of December, A. D. 1924.

(Sgd.) BASCOM D. TALLEY,
Notary Public.

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51 MOTION TO ELECT.

Filed Apr. 21, 1925.

(Title Omitted.)

Now come the defendants and each of them by their counsel of record and move the Court in the presence of the jury to require the plaintiffs herein to elect upon the inconsistent causes of action declared upon in the petitions and the first and second supplemental petitions herein filed and for cause and ground of this motion say that if said petition and said supplemental petitions disclose a cause of action, which is denied, said alleged cause of action are inconsistent and said petitions are multifarious.

Wherefore mover prays that the plaintiff be required to elect and in the alternative that their suit be dismissed.

(Sgd.) B. M. MILLER,
DELOS JOHNSON,
B. D. TALLEY,
H. GENERES DUFOUR,
Attys. for Defendants and each of them.

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52 HEARING ON MOTION TO ELECT AND ORDER OVERRULING SAME.

Extract from the Misntes,
February Term, 1925.

New Orleans, Tuesday, April 21st, 1925.

Court met pursuant to adjournment;
Present: Hon. Charlton R. Beattie, Judge.

(Title Omitted.)

This cause as continued from yesterday, was this day resumed, counsel for the respective parties as well as the jurors impaneled in the cause being all present:

Before the taking of testimony, counsel for the defendants objected to the hearing of any evidence and testimony on the grounds urged; after hearing arguments of counsel and on due consideration thereof, the Court overruled the said motion, counsel for the defendants taking a bill of exceptions to the ruling of the Court; counsel for the defendants then presented a motion requiring

the plaintiff to elect which motion was argued and overruled by the Court, counsel for the defendants reserving a bill of exceptions to the ruling of the Court.

Thereupon, after hearing evidence and testimony offered on behalf of the plaintiff, it was ordered that this cause be continued until tomorrow at 11 o'clock A. M. for further hearing.

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53 MOTION FOR SUBPOENA DUCES TECUM AND ORDER.

(Title Omitted.)

On motion of Mrs. L. E. Williams, appearing herein individually and also as the duly appointed and qualified Natural Tutrix of her minor son, Earl Williams, plaintiffs herein, through Hiddleston Kenner, A. T. Higgins and Max M. Schaumburger, their attorneys, and on suggesting to the Court that the following papers, pay-rolls, books and documents, to-wit:

The pay-rolls, books, papers and documents of the Great Southern Lumber Company, for the month of November, 1919, relating to the employment, pay or compensation of Major L. T. Guerre, Bob or Robert Carson; Wiley Magee or W. C. Magee; Paul LeBlanc; Jules LeBlanc; Jim or James Rogers; Max Stephenson; Captain Frith, son-in-law of W. H. Sullivan; Mr. Holt and Dr. Brister, which books, documents, papers and pay-rolls are in the possession of the Great Southern Lumber Company, one of the defendants herein; that their production into Court on the trial of this cause is necessary

and material to the interest of the plaintiffs, and that plaintiffs intend to prove by the said books, papers, pay-rolls and documents, the following facts, to-wit: That the above named parties were in the employment of the Great Southern Lumber Company during the month of November, 1919 and particularly on November 22nd, 1919;

It is ordered by the Court that a writ of "Subpoena Duces Tecum" do issue herein, commanding the Great Southern Lumber Company, one of the defendants herein, through its proper officers, to produce in open Court on the 27 day of April, 1925, at the hour of 11 o'clock A. M., or on any other day to which this cause
54 may be continued, the following books, papers, pay-rolls and documents, to-wit:

The pay-rolls, books, papers and documents of the Great Southern Lumber Company, for the month of November, 1919, relating to the employment, pay or compensation of Major L. T. Guerre, Bob or Robert Carson; Wiley Magee or W. C. McGee; Paul LeBlanc; Jules LeBlanc; Jim or James Rogers; Max Stephenson; Captain Frith, son-in-law of W. H. Sullivan; Mr. Holt and Dr. Brister.

New Orleans, La., April 23, 1925.

(Signed) CHARLTON R. BEATTIE,
Judge.

Service accepted; all rights reserved.

(Signed) H. GENERES DUFOUR, ET ALS.,
Attys.

55 State of Louisiana,
Parish of Orleans.

Before me, the undersigned authority, personally came and appeared, Mrs. L. E. Williams, appearing herein individually and as Natural Tutrix of her minor son, Earl Williams, plaintiffs in the foregoing motion, who being first duly sworn, deposes and says:

That she is one of the plaintiffs in the foregoing suit; that the books, papers, documents and pay-rolls of the Great Southern Lumber Company, relating to the employment, compensation and pay of the hereinabove named parties during the month of November, 1919, are in the possession of the Great Southern Lumber Company, one of the defendants herein.

That the same are necessary and material in this cause.

That her interest require their production into Court on the trial of this cause; that by the said books, papers, pay-rolls, and documents plaintiff intends to prove the employment of the above named parties by the Great Southern Lumber Company during the month of November, 1919, and particularly on November 22nd, 1919.

(Signed) MRS. L. E. WILLIAMS.

Sworn to and subscribed before me, this 23 day of April, 1925.

(Signed) MAX M. SCHAUMBURGER,

(Seal) Notary Public.

56 ANSWER OF GREAT SOUTHERN LUMBER CO. TO WRIT OF SUBPOENA DUCES TECUM.

Filed April 27, 1925.

(Title Omitted.)

Now into Court, through its counsel, H. Generes Dufour, Benj. M. Miller and Delos R. Johnson, comes The Great Southern Lumber Company, one of the defendants herein, and responding to the writ of "Subpoena Duces Tecum" issued on the day of April, 1925, demanding the production of certain books, papers, payrolls and documents, does declare and say:

The payrolls, books, papers and documents of the Great Southern Lumber Company for the month of November, 1919, relating to the employment, pay or compensation of any employee for said time, or for any time prior to January 1st, 1922, are not in existence. All payrolls, books, papers and documents relating to the employment, compensation or pay of employees of the Great Southern Lumber Company, after being retained and preserved for a period of three years, by uniform custom, rule and practice are destroyed for each respective year; all of which appears from the affidavit of W. H. Sullivan, General Manager of the Great Southern Lumber Company, annexed hereto and made part hereof.

Wherefore, and for the above reason, respondent prays that it be relieved from any and all liability on account

of its inability to comply with the demand made upon it by the service of the said writ.

(Signed) B. M. MILLER,
(Signed) DELOS JOHNSON,
(Signed) H. GENERES DUFOUR,
Attorneys for Great Southern Lumber Co., Defendant.

57 State of Louisiana,
Parish of Washington.

Before me, the undersigned authority, on this day, came and appeared W. H. Sullivan, well known to me, Notary, who after being duly sworn, declared:

That he is the Vice President and General Manager of the Great Southern Lumber Company.

That the payrolls, books, papers and documents of the Great Southern Lumber Company for the Month of November 1919, relating to the employment, pay or compensation of any employee for said time, or for any time prior to January 1st, 1922, are not in existence, the same by uniform custom, rule and practice having been destroyed for each respective year after being retained for a period of three years.

That for the above reason The Great Southern Lumber Company is unable to comply with the demand set forth in the writ of "Subpoena Duces Tecum" issued out of the United States District Court for the Eastern District of Louisiana, in the case entitled Mrs. L. E. Williams versus No. 16,377 The Great Southern Lumber Company, et als., and dated ..... day of April, 1925.

(Signed) W. H. SULLIVAN.

Sworn to and subscribed before me, this the 25th day of April, 1925.

(Signed) DELOS R. JOHNSON,
Notary Public.

58 CASE CALLED, JURY IMPANELED, PLEADINGS READ AND CONTINUANCE.

Extract from the Minutes,
February Term, 1925.

New Orleans, Monday, April 20th, 1925.
Court met pursuant to adjournment;
Present: Hon. Charlton R. Beattie, Judge.

(Title Omitted.)

This cause was this day called for trial;

Present: Hiddleston Kenner, Archibald T. Higgins and M. M. Schaumburger, Attorneys for the Plaintiff.

Present: H. Generes Dufour, B. M. Miller, B. D. Talley and D. R. Johnson, Attorneys for the Defendants.

Whereupon, the following named jurors were called and sworn to well and truly try the issue joined herein, to-wit:

1. Stonewall J. Raby, 2. Henry M. Schulze, 3. Horace P. Philips, 2 [4]. Rodney Hutchinson, 5. Geo. Andre, 6. R. J. Nash, 7. Maurice J. Rivet, 8. John J. Babin, 9. W. J. Riley, Jr. 10. Clay Laubauve, 11. Francis C. Elder, 12. J. J. Fahrman.

and the trial was procedeed with;

After hearing the pleadings read, it was ordered by the Court that this cause be continued until tomorrow at 11 o'clock A. M., for further hearing, and the Court cautioned the jurors not to converse with anyone or among themselves touching the matter in controversy.

59 HEARING, ARGUMENT OF COUNSEL ON MOTION TO DIRECT AND ORDER OVERRULING SAME AND CAUSE ARGUED BEFORE JURY AND CONTINUANCE.

Extract from the Minutes,
February Term, 1925.

New Orleans, Monday, May 4th, 1925.

Court met pursuant to adjournment;
Present: Hon. Charlton R. Beattie, Judge.

(Title Omitted.)

This cause, as continued from Friday, May 1st, 1925, was this day resumed, counsel for the respective parties as well as the jurors in the cause being all present and the trial was proceeded with:

Whereupon, having heard arguments of counsel for the respective parties on said motion of counsel for the Great Southern Lumber Company to direct a verdict in its favor and on due consideration thereof, the Court overruled the said motion, counsel for the Great Southern Lumber Company taking a bill of exceptions to the ruling of the Court.

60 CHARGE OF THE COURT TO THE JURY.

Filed May 28, 1926.

Judge's Charge.

Gentlemen, Mrs. Williams on her own behalf and as natural tutrix of her minor child is bringing this suit against the Great Southern Lumber Company and against the individuals named, to-wit: J. B. Lindsley, Harold H. Wilcox, Dave Bienn, Louis Levert, and Louis F. Guerre, in solido for the sum of Fifty Thousand Dollars, ($50,000.00), for the loss and damage suffered or alleged to have been suffered by her and her child as a result of the killing of L. E. Williams.

The issues as made by the Plaintiff have been explained to you in argument and the pleadings have been read to you. They charge the Great Southern Lumber Company with being responsible, because of having entered into a conspiracy to commit the offense and they charge likewise that the other individual defendants did the same thing, entered into a conspiracy and they charge all the defendants with being liable for their acts; the acts of the Corporation being laid to the Cor-

61 poration on the alleged ground that they were perpetrated by agents and employees of the Corporation, acting within the scope of their authority.

The jury, of course, must always be governed in questions of law by the charges on the subject by the Judge. On the question of fact and the credibility of the witnesses, they are the exclusive judges. Should any statements or comments be made by me touching upon the facts that differ in any way with the Jury's own recollection of the evidence, they should be governed by their own

recollection in judging of the evidence and should disregard my comments and statements.

As to the credibility of the witnesses, the jury, as stated, are the exclusive judges. They should attempt to reconcile all the testimony and all conflicting statements of the witnesses, if possible, to believe that all were telling the truth. But, if the testimony be so irreconcilable and contradictory that the jury conclude that all cannot be telling the truth, then it is for the jury to decide, according to all the circumstances, which witness they shall believe and what testimony they shall not believe. In judging the witnesses, the jury should
62 take into consideration the interests, if any of the witnesses, testifying, in the result of the litigation, and any other fact or circumstances, which in the ordinary course of human affairs would influence or control the jury as men of common sense and reason in deciding on important issues of life, in deciding which of the conflicting testimony they do not believe.

The testimony of the Plaintiff, or of the Plaintiff and of the Defendants must be treated like a testimony of all other witnesses. The credibility of the same must be determined in the same manner, taking into consideration the interests of the Plaintiff, and the interests of the Defendant in the litigation, any bias, if any that may have been shown, any contradiction, if any in their testimony, and any, and all facts and circumstances tending to credit or discredit the testimony given.

The discretion of the jury to believe some testimony and disbelieve other, is a judicial discretion, which must be exercised with care and judicially, and with good cause, and with good and reasonable cause. The jury should not arbitrarily discredit and disregard
63 the testimony of any witness. The jury, in the exercise of this discretion, must act judicially, and for good and reasonable cause.

Under the law, every act on the part of a man that causes damage to another, obliges him by whose fault it happened, to repair it, and in a case of this sort, the cause of action descends to the widow and minor child for the death of the husband and father, if he was wrongfully killed. You must decide from the evidence and the testimony adduced before you whether the defendants, or any of them, were at fault in the commission of any of the alleged acts against the plaintiff, and if you find the defendants, or any of them, were at fault in committing any of the acts complained of, one or more, those at fault must repair the damage, and be responsible for the damage ocasioned to the plaintiff by their illegal or wrongful acts. The plaintiff is entitled to recover for the damages suffered by her individually and by her minor child as a result of any wrongful act.

One of the defendants is a corporation. A corporation can act only through its employees and agents, and representatives, and employers and corporations are responsible for the unlawful acts, and the damage occasioned thereby, of their servants and employees, agents and representatives, in the exercise of the functions in which they are employed.

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In this case one of the defendants is the Great Southern Lumber Company, and it is sought to be made liable for damages in this case—

1. Because it conspired with some natural persons to do the acts complained of as wrongful and illegal, and

2. Because, if there was no conspiracy between said company and the natural persons referred to, then the acts complained of and alleged to have been illegal and wrongful were done and perpetrated by agents, employees and representatives of the corporation, for whose acts the corporation is responsible.

The individual defendants are claimed to be liable—

1. Because of their conspiracy among themselves and with the company to do the acts complained of as illegal and wrongful, and

2. Because of their participation in the alleged illegal and wrongful acts.

In this case, you must determine from the evidence—

65 1. Whether any of the acts complained about were illegal and wrongful, and if you should find that they were not illegal and wrongful, then no one would be responsible for any damage resulting therefrom.

2. If you find the acts were illegal and wrongful, then it becomes your duty to determine from the evidence—

a. Who did and committed such illegal and wrongful acts.

b. Whether the acts so found by you to be illegal and wrongful were committed as a part of, and in furtherance of and in execution of a conspiracy; and

c. Who were the parties to this conspiracy.

If you find that such illegal and wrongful acts were committed by any of the defendants personally, then such defendants, if found at fault in the commission of such acts, would be liable to repair the damage caused thereby.

If you find that any of such illegal and wrongful acts were committed and done in the execution and furtherance of a conspiracy previously formed and existing, then the defendants would be responsible and liable for the resulting damages even though they did not personally commit the act, for each person who is party to a conspiracy is responsible and liable for the acts
66 of each of the other parties to the conspiracy which may be committed in the furtherance and execution of that conspiracy and before it has come to an end.

In determining whether or not a conspiracy existed in this case between the defendants, or any of them, among themselves or with others, it is not necessary for the plaintiffs to prove the existence of an expressed agreement among the conspirators, or an expressed conspiracy expressly agreed upon between them. Conspiracies can seldom be proven by any such evidence. It would be seldom possible ever to prove an express agreement to participate in such conspiracy. The existence of an conspiracy may be proven by circumstances and by concert of action between the parties to the conspiracy. The existence of a conspiracy may be proven by circumstances showing a concert of action reasonably pointing to the existence of a conspiracy.

Under the law, plaintiffs carry the burden of proving, by a preponderance of evidence, all the material allegations and facts necessary to make up their case, and to show that the defendants have been at fault in doing or committing some act which has caused damage. This rule of law requires the plaintiffs in this case
67 to prove every material allegation and fact of the kind mentioned, and among such allegations, to prove, by evidence of the character above referred to, the existence of the alleged conspiracy.

"To justify holding the Great Southern Lumber Company liable as a party to the conspiracy, there must be evidence showing, in the manner above explained, the existence of this conspiracy and its authorization on the part of this Company by some officer or employee acting in the exercise of the functions for which he is employed, and within the scope of his authority as such officer or employee. If the conspiracy be formed or be participated in, on behalf of the company, by some officer or employee not expressly authorized by the governing body of the corporation, and acting beyond the scope of his employment, then the corporation cannot be held liable as a party to such a conspiracy.

"As I have told you, if the Great Southern Lumber Company are not found by you to be liable on account of the existence of a conspiracy to which they were a responsible party; as just explained, then you will have to determine from the evidence whether they are legally liable under the facts as they have proven before you, because, though not a party to the conspiracy, the alleged wrongful and illegal acts were actually perpetrated and committed by some officer or employee of the company, and then the company would not be liable unless such employee and officer so committing said acts, when doing so, was acting in the exercise of the functions in which he was employed, and within the scope of his employment. If the acts were done by some employee acting not in the exercise of the functions in which he was employed and beyond the scope of his authority, the company would not be be liable."

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"If the alleged wrongful and illegal acts were committed by an employee of the company, in the exercise of the functions in which he was employed, and within the scope of his authority, then the corporation would be

liable, even though such officer may have exceeded and violated the express instructions, if any, given to him on the subject.

"And on this subject, I give you the following special charges:

A corporation cannot be held liable except for the acts of its duly authorized agents. Such authority may be expressly conferred by the board of directors of the corporation, or it may be implied from the duties
69 confided by the corporation to such agent. As soon as the agent acts beyond the scope of the duties conferred upon him, his actions do not bind the corporation.

"A plaintiff in an action seeking to hold a corporation responsible for damages for the act of one or more of its employees, carries the burden of establishing and proving that the act resulting in such damage was either expressly authorized, or was within the scope of the employment of such employee or employees, and said plaintiff must show by preponderance of evidence, that such employee or employees had expressed or or implied authority from the corporation to commit such act. This implied authority may be proven by evidence that the acts, if committed, were within the scope of the agent's employment.

"Before you can hold the Great Southern Lumber Company liable for damages resulting from the killing of Williams, you must find from a prepondenance [preponderance] of evidence that the Great Southern Lumber Company, acting through its officials or employees,

charged with the management and direction of its affairs, either entered into an agreement or conspiracy to kill Williams, or knowing such agreement or
70 conspiracy to have been entered into, participated and took part in the execution thereof, or that the killing of Williams was done or participated in or by an employee or employees of the Great Southern Lumber Company, acting within the scope of his or their duty and employment."

"If you find from the evidence that the shooting of Williams was deliberate, intentional and was done with malice, then you cannot hold the Great Southern Lumber Company responsible, even if you find from the evidence that any of its employees, employed for legal and lawful purposes, took part in such shooting, unless you find that the plaintiffs have proven by a preponderance of evidence that such employee was, or such employees were, previously or antecedently, expressly authorized to take part in such shooting, or unless you find that the plaintiffs have proven by a preponderance of evidence that such employee was, or such employees were, when taking part in such shooting, acting in the exercise of the functions in which they were employed, and within the scope of their employment, and that the scope of their employment was such as to include the authority to commit a deliberate and malicious killing."

A corporation can be held responsible for acts
71 which are not strictly within its corporate powers, and which were assumed to be performed for the corporation and by the corporate agents who were competent to employ the corporate powers actually exercised. There need be no written authority under seal, nor vote of the corporation, constituting the agency or authorizing the act. But in the absence of evidence of

this nature, there must be evidence of some facts from which the authority of the agent to act upon, and in relation to the subject matter involved, may be fairly and legitimately inferred by the jury.

A peace officer, or an officer authorized to make arrests and executes warrants, may, if he has a warrant issued by a court, or officer having jurisdiction to issue same, enter the premises, that is, the yard of either the one accused in the warrant of crime, or the premises, that is, the yard even of a third person on whose property the party accused in the warrant has taken refuge, or where the officer has reasonable ground to believe such accused is.

An officer to whom a warrant has been legally issued for the arrest of a person, may do all that is reasonably necessary to execute such a warrant. If the offense for which the warrant is issued be, as in this case,
72 a lesser offense than a felony, then the officer should not, for the purpose merely of enforcing the warrant and arresting the accused, take his life, but if in the proper enforcement and execution of the warrant, the officer is resisted, either by the accused or by one of his friends and associates, or an outsider, to such an extent as to place the officer in a position where he in is danger of death, or of great bodily harm, such officer has the right of self defence and of protecting himself against the threatened danger to his life, or against great bodily harm, even to the extent, if reasonably necessary, of killing the person by whom his life or body is thus placed in danger. One, whether an officer or not, has always, under proper circumstances, and when the conditions have not been wrongfully brought about by himself, the right of self defence, which authorizes him if necessary to protect his life, or his body from great bodily harm, to use the nec-

essary force, even to the extent of killing, and in determining whether one is in such a position as to justify this right of self defence, the jury must judge of the conditions in the light of the facts and surroundings and circumstances as they existed on the ground at the time, and must place themselves in the
73 shoes of the parties, and not judge merely of conditions after the excitement and danger is over, and on a reflection of the facts and circumstances as related in the calm solemnity of the court room.

An officer properly placed in charge of the execution and enforcement of a warrant of arrest, is protected by the warrant where he acts in good faith and without malice, and in the belief that the proceedings under which the warrant was issued were regular, and that the magistrate or officer who issued the warrant had jurisdiction so to do. The officer, in serving and executing the warrant, has a right to rely on same, and is not compelled to examine the complaint or other preliminary proceedings, and is not bound to look behind a regular warrant coming from a court or officer of proper jurisdiction. The officer, if acting solely to execute and enforce the warrant, is protected by the warrant so long as he does only that which the warrant commands him to do.

Proof of the fact, if there be such proof, that the officer was appointed and sworn as such, or even proof that the officer is generally and notoriously known as an officer authorized to arrest and execute warrants, if there be such proof, is sufficient to show his official
74 capacity.

Other officers, or even private citizens, when and if called upon to assist in the execution of a warrant, or by the officer having it for execution and enforcement, are protected and authorized to act by the same rules and laws above referred to, that protect the officer himself who has the warrant for execution and enforcement.

When an officer, if lawfully attempting to arrest a person charged with the commission of misdemeanor, or offence less than felony, such as in this case, is resisted by armed force, he has the right, and it is his duty, to use such force as will enable him to overcome the resistance offered, even to the extent of taking the life of the person resisting, if there be actual existance to such an extent as to place the officer in danger of his life or of great bodily harm.

If you believe from the evidence that a number of police officers went to the premises of L. E. Williams with legal warrants for the arrest of other persons whom they believed, and had reasonable grounds to believe, were there, and that in response to the summons of such officers, said Williams came to the door of his office, and that one or more of such police officers immediately shot
75 and killed him, without justifiable cause, such police officers who shot and killed him will be responsible, if not protected by the other rules of law, such as the right of self defence, etc, which I have explained, and those officers or private citizens assisting the officers who did the shooting will be responsible, if the killing was such as to form a part of any conspiracy to which they were parties, and which, in its natural consequences, would lead to this result. But such officers doing the shooting, and the other parties in the conspiracy, if there be such, would not be responsible if the actions of Williams were such as to place the officers in danger of their lives, or great bodily harm, to such an extent as to justify, as explained the exercise of the right of self defence. But even under the circumstances just related, the Great Southern Lumber Company cannot be held liable for the acts of the officer or officers in killing Williams, unless you believe from the evidence that said company, as heretofore explained, had

conspired with the officers and other defendants to have said officers go to William's place for the purpose of killing him, or had procured or employed such officers, or some of them so to do, or unless the company be liable under the law heretofore stated, making one li-
76 able for the acts of his agents and employees acting within the scope of their employment.

The right of all persons to keep and bear arms is protected by our Constitution, and cannot be abridged. Under this rule, Williams and his associates had a right to keep and bear arms, and to have them in Williams office, and the mere fact of the presence and possession there of the arms was not illegal or wrongful. They had the right to keep and possess the arms and to use them for all lawful purposes, such as the protection of themselves against illegal, unjustified and unwarranted attacks on their persons or property.

The law does not prohibit a citizen from carrying arms publicly on the streets, and in doing so, he commits no offence, and is entitled to freedom from arrest until he commits some offence.

If you should conclude, under the rules of law above given you, and under the evidence, that the defendants or any of them are legally responsible in damages to the plaintiff, for damages suffered by her and her minor child, for whom she also sues, it is within the province of the jury to assess the amount of the loss and damage suffered by the plaintiff individually and by her minor child.
77 In assessing these damages, a sufficient amount should be allowed the plaintiff to compensate her for being deprived of the love and assistance and affection of her husband, and for the loss of support by him, and in fixing the amount, the jury should take into consideration the age and physical condition and earning capacity of the deceased when he was killed, the amount

that the testimony shows he was earning at the time of his death, the probable duration of his life, considering his age, based on the mortality tables, and also the mental and physical suffering of the plaintiffs caused by the death of Williams and by the loss of his companionship.

The same elements must be considered in determining the amount of damage suffered by the plaintiff individually and by her minor child, and in finding a verdict, you should assess the amount of damages suffered by each separately, and state the amount for which a verdict is rendered in favor of each.

Mr. Johnson:

If your Honor please, as to the Mortality Tables, that is a question of fact. I don't want to discuss it before the jury—

Mr. Higgins:

No; it is a question of law.

78 Mr. Johnson:

It is simply a matter of figuring out the probable duration of life and that is all there is to it.

(Counsel hands mortality tables to Judge.)

The Court:

The mortality tables offered in evidence show that a person thirty years old has 35-1/3 years of life: thirty-one years old, he has 34-63/100 years to live, and one thirty-two years old has 33.93 years to live. That is the evidence that is before you in court.

I will also charge you that it is not against the law for employees to form and organize a labor union. They have a legal right to organize these unions for the purpose of

securing better working conditions, better wages and better working hours. Labor unions have a right to request employers to sign a contract with the union organization governing the employment of men by the employer, the wages to be paid, the conditions under which the men are to work, and the hiring and discharging of employees. The employer has a legal right to refuse to sign such contract, and also the right to refuse to recognize the union.

Members of a union organization have a right to strike and leave the employment of the employer if they are not satisfied with the working conditions, the wages and the number of hours the men have to work. The em-
79 ployer of course likewise has the right to discharge any laborer for sufficient cause.

In case of a strike by the union, or a lock out by the employer, the members of the union have the right to station pickets, but not on the employer's property, for the purpose of peaceably soliciting men to join the union, or to peaceably persuade would-be employees of the employer, or employees of the employer, not to work for the employer during the strike.

The members of the union have no right to use physical force or violence to compel would-be employees of the employer, or employees of the employer, not to work for him during the strike.

The employer has no right to interfere with the members of the union who may peaceably solicit workmen to become members of the union, or who can persuade would be employees of the employer not to work for the employer during the strike.

On the question as to whether or not certain men were employers of the Great Southern Lumber Company, and acting as such, acting as agents within the scope of their authority, the burden of proof of all material facts is upon the plaintiff to prove same by a preponder-
80 ance of evidence. That fact must be proven and cannot be presumed from failure to produce any evidence called for by the plaintiff from the defendant. If the defendants have or had had in their possession, or did have in their possession and have not reasonably accounted to you for not having at this time any evidence that would bear upon this question of employment, then you could draw a reasonable presumption that that evidence, if produced, would show the contrary of what the employer desires to show. But this presumption cannot arise, if the absence of the evidence called for has been sufficiently and satisfactorily and reasonably explained to you, and mere presumption, without other evidence, the mere presumption arising from failure to produce that evidence, particularly if its absence is reasonably accounted for, cannot take the place of other evidence of a positive nature to prove beyond reasonable doubt the employment of the parties referred to.

I believe I have covered, so far as I am willing to cover, your special charges.

Mr. Johnson:

In your very last statement, you said "beyond reasonable doubt." I think you meant "by preponderance of evidence."

81 The Court.

I have gotten into the habit of so charging in criminal cases, but in civil cases that is not the rule. The rule is that plaintiff does carry the burden of proof

and must prove his case, but in a civil case, he does not have to prove his case beyond reasonable doubt, as in a criminal case, but he has to prove all material allegations and all the facts necessary to make up his case by a preponderance of evidence. In other words, if the evidence were equally balanced, the plaintiff has not proven his case; the plaintiff must prove by a preponderance of evidence all necessary and material facts.

Mr. Dufour:

If your Honor please, Mr Talley was not able to be here; he has an engagement in Washington Parish and has asked me to look after his interest in matters pertaining to the charge. There is just one feature of the charge that I want to note an exception to on behalf of the individual defendants.

Mr. Kenner:

We would like to except to the refusal special charge No. 1. We simply want to reserve our rights. We would like to except to the refusal of special charge No. 2, also to the refusal of special charge No. 3, also to the refusal of special charge No. 5, also to the refusal of special charge No. 6, also to the refusal of special charge No. 7.

82

Mr. Dufour:

On behalf of the individual defendants represented by Mr. Talley, who is unavoidably detained and not able to be present, in his name and behalf, and on behalf of the defendants, exception is made to that portion of the Judge's general charge with reference to the exceeding of authority by special officers, and particularly that if the special officers exceeded their authority under circumstances which did not justify the use of force, they

would be liable; the objection being leveled at the nature of the cause of action, which does not support that portion of the general charge.

The Court:

If I have not charged you gentlemen, I do charge you that the right to bear arms is protected by the law, and Williams and his associates had a right to the arms, provided they used them for a lawful purpose, and not for any illegal purpose, and that, should you find from the evidence that Williams and his associates believed they were going to be attacked and had provided themselves with weapons and prepared to defend themselves, they had a legal right to do so, and the defendants cannot justify the killing merely because they did
83 possess arms and had placed them in that office.

I have explained to you the law of self defence and the law relating to arresting officers.

Mr. Kenner:

We would like also to except to your Honor's charge that an officer, even in the execution of a warrant for a misdemeanor, has the right to enter the premises of a third person without a search warrant. I understood you to charge that.

The Court:

Yes. I charged that with a proper warrant, any officer could enter the premises of a third person for the purpose of legally enforcing that warrant.

Mr. Kenner:

Even in a case of misdemeanor?

The Court:
Even in a misdemeanor.

Mr. Kenner:
Well then we would like to except to that charge.

The Court:
You, gentlemen, will elect your own foreman. Your verdict must be unanimous, and upon reaching a verdict unanimously, you will write it on the petition. There are several petitions, and I suppose either one of them would be sufficient.

84 Your verdict may be for the plaintiff against all of the defendants, or for the plaintiff against one defendant, or two defendants or more, as you may find the facts to justify.

If you find for the plaintiff, then you would have to assess the amount of damages for the plaintiff, Mrs. Williams, personally, and for her as the representative of her minor child, and you would write the amount of your verdict upon the petition, stating against whom you rendered it, whether against the Great Southern Lumber Company and all of the individual defendants, or against the Great Southern Lumber Company alone, or against each and every one of the individual defendants, and whatever your verdict may be, you will write it on the petition.

85 CASE RESUMED AND JURY CHARGED, AND VERDICT.

Extract from the Minutes.

February Term, 1925.

New Orleans, Tuesday, May 5th, 1925.

Court met pursuant to adjournment;

Present: Hon. Charlton R. Beattie, Judge.

(Title Omitted.)

This cause, as continued from yesterday, was this day resumed counsel for the respective parties as well as the jurors in the cause being all present and the trial was proceeded with:

Whereupon, after receiving a charge from the Court, the said jury retired to their room to deliberate as to their verdict; after due deliberation, the said jury returned into open Court, and then and there, through their foreman, did render and deliver the following verdict, to-wit:

"New Orleans, May 5th, 1925.

We the jury render the verdict in favor of the plaintiffs Mrs. L. E. Williams individually and as natural tutrix of her minor son John Earl Williams, in the sum of Forty Thousand Dollars, ($40,000.00) and Ten Thousand ($10,000.00) respectively against the Great Southern Lumber Company, and J. B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert and Louis F. Guerre, in solido with interest as demanded.

M. J. RIVET, Foreman."

Thereupon, upon motion of counsel for the defendants, it is ordered by the Court that the said jury be polled, and upon being severally called upon and interrogated by the Clerk, each of said jurors for himself did then and there declare the said verdict to be his true verdict in the premises; Thereupon, it was ordered by the Court that the verdict of the said jury be recorded and it is done accordingly and it was further ordered that the said jury be discharged from further consideration of the cause.

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86 MOTION FOR NEW TRIAL AND ORDER TO SHOW CAUSE.

Filed May 7, 1925.

(Title Omitted.)

On motion of the Great Southern Lumber Company, J. B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Lavet and Joseph F. Guerre, appearing through their counsel, B. M. Miller, DeLos R. Johnson, B. D. Talley and H. Generes Dufour, respectively; and

On suggesting to the Court that the verdict of the jury herein rendered, recorded and filed on May 5, 1925, in favor of plaintiff, individually and as natural tutrix of her minor child, and against the defendants in solido, is contrary to the law and the evidence for this, to-wit:

(a) That the Court erred in failing to grant the motion of the Great Southern Lumber Company for a verdict in its favor and against the plaintiffs made in the presence of the jury at the conclusion of all of the evidence in the cause;

(b) That the Court erred in not sustaining the objection of the defendants made at the time plaintiff sought to introduce testimony in support of her demand on the ground that plaintiff's petition disclosed no cause of action and that under the pleadings there was no justiciable question propounded to the Court;

(c) That the Court failed to sustain defendants' objection to the admission of any evidence on behalf of the plaintiff;

(d) That the Court erred in excluding the evidence offered by the defendants and objected to by plaintiff, as appears from the transcript of the testimony taken in this cause, to all of which rulings of the Court defendants then and there duly excepted;

(e) That the Court erred in admitting over the objection of the defendants certain evidence of the plaintiff in the particulars which will appear from the transcript of the testimony in this cause;

(f) That the Court erred in excluding the evidence offered and tendered by the defendants tending to show the nature of the breach of the peace committed by Dacus, Bouchillon and O'Rourke on the morning of November 22, 1919;

(g) That the Court erred in permitting plaintiff to introduce evidence of certain incidents as a part of the res gestae when such evidence was hearsay evidence and therefore no part of the res gestae, over the objection of the defendants, as appears from the transcript of the evidence in this cause;

87 (h) That the Court erred in failing to sustain and to direct a verdict in defendants favor based upon the plea of prescription duly filed by the defendants in this cause;

And on further suggesting to the Court that the verdict in favor of plaintiff and against defendants is excessive, arbitrary and unreasonable and indicates bias and prejudice on the part of the jury against defendants, and furthermore said verdict is not justified by but is contrary to the law and the evidence in this cause, and the amount of said verdict is excessive and unreasonable and violates all precedents established by this Court and the Supreme Court of the State of Louisiana in awarding compensatory damages in similar cases;

It is ordered that the plaintiff, Mrs. L. E. Williams, individually and as natural tutrix of her minor son, John Earl Williams, do show cause before this Court on Saturday, May 16, 1925, at eleven o'clock A. M., why the verdict of the jury should not be set aside and a new trial should not be granted herein.

(Sg.) H. GENERES DUFOUR.

Filed May 7, 1925.

88 HEARING ON TION [MOTION] FOR NEW TRIAL AND ALSO THE QUESTION OF JURISDICTION AND SUBMISSION, ETC.

Extract from the Minutes.

May Term, 1925.

New Orleans, Thursday, May 21, 1925.

Court met pursuant to adjournment.

Present: Hon. Charlton R. Beattie, Judge.

(Title Omitted.)

This cause came on this day to be heard upon the motion of the defendants for a new trial and also upon the question of jurisdiction;

Present: H. G. Dufour, B. M. Miller, D. R. Johnson and B. D. Talley, attorneys for the Defendants, movers;
Present: A. T. Higgins, M. M. Schaumburger and Hiddleston Kenner, Attorneys for the Plaintiff.

Whereupon, after hearing the said motion for a new trial and arguments of counsel for the respective parties the matter was submitted upon briefs to be filed when the Court took time to consider.

89 OPINION ON MOTION FOR NEW TRIAL.

Filed Apr. 13, 1926.

(Title Omitted.)

Mr. Hiddlestone Kenner, New Orleans, Louisiana, Attorney for Plaintiff.

Dufour, Goldberg & Kammer, Mr. Delos R. Johnson, and Mr. B. M. Miller, New Orleans, Louisiana, Attorneys for Defendants.

DAWKINS, J.—

This was an action in tort in which the plaintiff claimed damages individually and as tutrix of her minor son for the death of the husband and father. Originally it was instituted against the Great Southern Lumber Company alone, but by amendment the other defendants were made parties. The cause was submitted to a jury, who found for the plaintiff in the sum of $50,000.00. Defendants then moved for a new trial upon the following grounds:

"(a) That the Court erred in failing to grant the motion of the Great Southern Lumber Company for a verdict in its favor and against the plaintiffs made in the presence of the jury at the conclusion of all of the evidence in the cause;

(b) That the Court erred in not sustaining the objection of the defendants made at the time plaintiff sought to introduce testimony in support of her demand on the ground that plaintiff's petition disclosed no cause of action and that under the pleadings there was no justifiable question propounded to the Court;

(c) That the Court failed to sustain defendants' objection to the admission of any evidence on behalf of the plaintiff;

(d) That the Court erred in excluding the evidence offered by the defendants and objected to by plaintiff, as appears from the transcript of the testimony taken in this cause, to all of which rulings of the
90 Court defendants then and there duly excepted.

(e) That the Court erred in admitting over the objection of the defendants certain evidence of the plaintiff in the particulars which will appear from the transcript of the testimony in this cause;

(f) That the Court erred in excluding the evidence offered and tendered by the defendants tending to show the nature of the breach of the peace committed by Dacus, Bouchillon and O'Rourke, on the morning of November 22, 1919;

(g) That the Court erred in permitting plaintiff to introduce evidence of certain incidents as a part of the res gestae when such evidence was hearsay, evidence and therefore no part of the res gestae, over the objection of the defendants, as appears from the transcript of the evidence in this cause;" and finally upon the ground that the verdict was excessive.

After verdict and while the motion for new trial was pending, the presiding Judge (who subsequently died without passing thereon) raised the question as to whether the plaintiff had properly alleged or shown the jurisdictional facts in so far as she was concerned—

—that is, that she was a citizen of the State of Louisiana. Thereupon, she presented an amendment duly sworn to that she was a citizen of said state. Nothing to contradict this allegation and proof having been submitted, I think the amendment, in view of Section 274c of the Judicial Code, as amended by the Act of March 3, 1915, must be allowed and that it sufficiently establishes the citizenship of the plaintiff. In fact, this view does not appear to be seriously controverted by the defendant.

The trial Judge suggested upon the argument of the motion for new trial that, in as much as the defendants, other than The Great Southern Lumber Company, were shown to be citizens of the State of Louisiana, the Court was probably without jurisdiction to try the issues of the case. Whereupon plaintiff moved for a nonsuit as against these defendants.

While defendant appears to concede that the plaintiff may, at this stage, take a nonsuit against any of the defendants, it is earnestly insisted that if and when allowed, a new trial must be granted, first, because so long as these defendants were parties, the Court was

91 without jurisdiction to try or decide the issues, and the case must go back to the point where that amendment was allowed which brought them in; and secondly, that to refuse it a new trial will have had the effect of denying it the full benefit of the testimony of these defendants, some of whom testified on the trial, since the jury did not and could not give full effect to their evidence because of their interest in the outcome of the suit, as might have been done had they been disinterested witnesses.

A determination of the first point raised by the defendants, i. e., the right of the plaintiff to dismiss this suit against one or more defendants whose presence

in the case would have the effect of ousting the jurisdiction of this Court, depends upon whether or not the demand as against the remaining defendant and those dismissed, is severable—that is, can judgment be rendered against The Great Southern Lumber Company without affecting the rights of the other defendants and without prejudice to those of that company? Horn vs. Lockhart, 17 Wall., 579; Thomas vs. Anderson, 223 Fed. Rep., 43; Mason et al vs. Dullingham, et al, 87 Fed., 689; Grove vs. Grove, 93 Fed., 867; Ladew vs. Tennessee Copper Company, et al, 179 Fed., 255; Clark vs. Chicago, M. & St. P. Ry. Co., 11 Fed., 355; See also Fed. Rep., Dig., Vol. 2, Col. 3000, verbo Courts, Sec. 88; Ib., Vol. 6, p. 1876, verbo Courts, Sec. 318; Ib. Vol. 10, p. 347; Ib., Vol. 13, p. 432. There is no doubt but that the action against the several defendants was and is severable. It is one in tort under Art. 2315 of the Revised Civil Code of Louisiana as to which it has been repeatedly held, in fact has never been disputed, that a plaintiff may sue one or more joint tort feasors without regard to the others, or having obtained a judgment against all may execute against one of them alone, and if they all be at fault, neither has any recourse against the other, who is made to pay. It has also been held in some of the cases above cited (Mason vs. Dullingham) that the dismissal may be made after verdict and before signing of the judgment. No authority to the contrary has been cited by the defendant.

With respect to the second point, I am not impressed that the testimony of such of the defendants as testified, who are sought to be dismissed, would
92 have been given greater weight by the jury had they not been parties to the suit. Most, if not all, declined to answer certain questions as to their participation in the shooting which resulted in

the death of plaintiff's husband, under their constitutional right to refuse to answer any question which might incriminate them, or be used in a criminal prosecution, and the evidence otherwise showed that they, or most of them, were present, armed and participated in the undertaking which resulted in the death of Williams. The main question which the jury had to decide was as to whether the persons who visited Williams' place were engaged in the discharge of a bona fide and honest effort as officers of the law, to execute a valid warrant, or whether they were in reality helping the defendant, The Great Southern Lumber Company, to combat an attempt to organize and unionize the employees of that company.

I have carefully read the entire record and while I might, if the case had been submitted to me without the intervention of a jury, decided differently, still the evidence was conflicting as to who fired the first shot and also as to whether if done by the ones seeking to execute the warrant, they acted in self-defense. The fact that four men of the Williams' party, who were inside the buildings, were killed and a fifth seriously wounded while only one of the special officers was slightly wounded, was a circumstance which the jury could and no doubt did consider in determining these issues. There was also evidence from which the inference might be drawn that the Self-preservation and Loyalty League had as one of its purposes acquiesced in by the defendant Lumber Company and participated in by some of its employees, the promoting of the stand taken by the defendant company in its dealings with the Labor Union. In any event, the jury were the judges of these issues of fact and the Court has not the right, on a motion for new trial, to itself decide them differently, if there be evidence, either direct or cir-

cumstantial, to support the conclusion reached by the jury. It is a matter of common knowledge that in controversies of this kind between employers and
93 employees, one or both may be at fault and they present just such questions as a jury is qualified to determine.

The other grounds relied upon in the motion for a new trial, except the one as to the size of the verdict, I think are without merit.

On the other hand, I do think the sum allowed is excessive, in view of the recoveries which have been permitted in both the Courts of Louisiana and those of the United States. I think that $10,000 for the child and $20,000 for the wife would be sufficient to reasonably compensate them for the damages suffered. Therefore, if the plaintiff shall enter within thirty days from the filing of this memorandum a remittitur of the excess, that is, of $20,000 of the sum allowed in favor of the plaintiff individually, and so as to reduce her recovery to $30,000, the new trial will be denied; otherwise it will be granted upon the ground of the excessiveness of the amount of the verdict.

Done and signed at Monroe, Louisiana, on this the 10th day of April, A. D. 1926.

(Signed) BEN C. DAWKINS,

U. S. D. J.

94 HEARING AND ORDER OVERRULING MOTION FOR NEW TRIAL.

Extract from the Minutes,
February Term, 1926.

New Orleans, Wednesday, April 21st, 1926.
Court met pursuant to adjournment;
Present: Hon. Louis H. Burns, Judge.
Present: Hon. Ben C. Dawkins, Judge.

Proceedings before Hon. Ben C. Dawkins, District Judge.

(Title Omitted.)

Considering the memorandum opinion of the Court, filed on April 13th, 1926, in the above entitled and numbered cause, and considering that the plaintiff in said cause on April 20th, 1926, filed a remittitur, under said opinion, reducing the amount of the verdict rendered in said cause from $50,000.00 to $30,000.00;

It is ordered by the Court that the said motion of the defendants for a new trial herein be, and the same is hereby overruled.

95 REMITTITUR.

Filed Apr. 19, 1926.

(Title Omitted.)

Remittitur.

Now into the Honorable Court comes Mrs. Lena E. Williams, widow of the late L. E. Williams, individually and as natural tutrix of her minor son, John Earl Williams, plaintiff in the above numbered and entitled proceedings, and with respect represents:

That the Court having expressed an opinion that the amount of the damages assessed by the jury in the above numbered and entitled cause, to-wit, $50,000.00, with 5% interest thereon per annum from judicial demand until paid, together with all costs of suit, are excessive, and the said Court having offered to plaintiff the choice of remitting the sum of $20,000.00 of said assessment of damages, or of submitting to an order of the Court granting a new trial in said action, the plaintiff, Mrs. Lena E. Williams, widow of L. E. Williams, individually and as natural tutrix of her said minor son, John Earl Williams, upon the said suggestion of the Court, comes into Court in her own person and as natural tutrix of her said minor son, and remits of record the sum of $20,000.00, of amount of the said verdict, and consents that the judgment of the Court may be for the sum of $30,000.00, with 5% per cent per annum thereon from judicial demand until paid,—together with all costs of suit, the sum of $20,000.00, with 5% interest per annum from judicial demand until paid, together with all costs of suit being awarded to plaintiff, Mrs.

Lena E. Williams, widow of L. E. Williams, individually; and the sum of $10,000.00, with 5% interest per annum from judicial demand until paid, and all costs of suit, being awarded to plaintiff as natural tutrix of her minor son, John Earl Williams, for his use and benefit, and to accept judgment accordingly.

96 Wherefore, the premises considered, plaintiff prays that the remittitur of Twenty-thousand ($20,000.00) Dollars, as aforesaid, having been remitted in accordance with the suggestions and reasons of the Court filed herein, that the motion of the Great Southern Lumber Co., defendant, for a new trial be refused and denied, and that in due course, there be judgment herein in favor of Mrs. Lena E. Williams, widow of L. E. Williams, plaintiff herein, individually and also as the duly appointed and qualified natural tutrix of her minor son, John Earl Williams, and against the Great Southern Lumber Co., defendant, in the full sum of Thirty Thousand ($30,000.00) Dollars as damages, with 5% per annum interest thereon from judicial demand until paid, together with all costs of this suit, to be apportioned between plaintiff and her said minor son in the proportion of $20,000.00 with 5% interest thereon per annum from judicial demand until paid, and all costs of this suit, to the said Mrs. Lena E. Williams, widow of L. E. Williams, individually; and $10,000.00, with 5% interest per annum thereon from judicial demand until paid, and all costs of Court, to the said Mrs. Lena E. Williams, widow of L. E. Williams, in her capacity as the duly appointed and qualified natural

tutrix of her minor son, John Earl Williams; and for all necessary orders, general and equitable relief and costs of Court.

(Sgd.) MRS. L. E. WILLIAMS,
Individually and as natural tutrix of her minor son,
(Sgd.) JOHN EARL WILLIAMS,
Plaintiff,
(Sgd.) H. KENNER,
(Sgd.) A. T. HIGGINS,
(Sgd.) MAX M. SCHAUMBURGER,
Attorneys for Plaintiff.

97 State of Louisiana,
Parish of Orleans,
City of New Orleans.

Before me, the undersigned authority, personally came and appeared, Mrs. Lena E. Williams, widow of lawful age of L. E. Williams, appearing herein individually and as natural tutrix of her minor son, John Earl Williams,—who after being first duly sworn, did depose and say:

That she is the plaintiff in the foregoing remittitur; that she has read each and every allegation contained in the said remittitur, and that each and every allegation therein contained is true and correct.

(Sgd.) MRS. L. E. WILLIAMS,
Individually and as natural tutrix of her minor son, John Earl Williams.

Sworn to and subscribed before me, this the 16th day of April, 1926.

(Signed) J. C. McGEE,
(Seal) Notary Public.

98 THIRD SUPPLEMENTAL AND AMENDED PETITION AND ORDER.

Filed Apr. 21, 1926.

(Title Omitted.)

To the Honorable the United States District Court, in and for the Eastern District of Louisiana, New Orleans Division:

The supplemental and amended petition of Mrs. Lena E. Williams, widow of L. E. Williams, appearing herein individually and also as the duly appointed and qualified Natural Tutrix of her minor son, John Earl Williams, plaintiffs herein, both residing in the City of New Orleans, State of Louisiana, with respect represents:

1.

That in the original petition herein filed by your petitioner on the 6th day of November, 1920, petitioner inadvertently omitted to state that her deceased husband, L. E. Williams, was a citizen of the State of Louisiana and of the United States of America; that her minor son, John Earl Williams, also is a citizen of the State of Louisiana, United States of America, and that petitioner, Mrs. Lena E. Williams, is also a citizen of the State of Louisiana, of the United States of America.

2.

That petitioner desires to have leave to amend her said original petition by inserting in Article No. 1 of her orginal petition, after the words "City of New

Orleans," the following words, to-wit: "that her said husband, L. E. Williams, was a citizen of the State of Louisiana, United States of America, and that petitioner and her minor son, John Earl Williams, are both citizens of the State of Louisiana and the United States of America, domiciled in the City of New Orleans."

Wherefore, petitioner prays that she may have leave to file this amended and supplemental petition, in accordance with law, and that the said original petition be amended by inserting in Article No. 1 of the said original petition, after the words—"City of New Orleans," the following words, to-wit: "that her said husband, L. E. Williams was a citizen of the State of Louisiana, United States of America, and that petitioner and her minor son, John Earl Williams are both citizens of the State of Louisiana, United States of America, domiciled in the City of New Orleans," and that petitioner reiterates all of her allegations in her original petition.

99

And for all equitable and general relief, etc.

(Signed) H. KENNER,
(Signed) A. T. HIGGINS,
(Signed) MAX M. SCHAUMBURGER,
Attorneys for Petitioner.

State of Louisiana,
Parish of Orleans.

Before me, the undersigned authority, presonally came and appeared: Mrs. Lena E. Williams, appearing herein individually and also as the duly appointed and qualified Natural Tutrix of her minor son, John Earl Williams, who being first duly sworn, deposes and says:

That she is the petitioner in the foregoing petition; that she has read the same and that each and every allegation therein contained is true and correct; that her deceased husband, L. E. Williams, was a citizen of the State of Louisiana, of the United States of America, and that both she and her minor son, John Earl Williams, are now and were at the date of filing the original petition herein, and on the date of November 22nd, 1919, when the tortious acts complained of in this suit occurred, and prior thereto, a bona fide citizen of the United States of America and of the State of Louisiana, both having been born in this State, and
100 always domiciled therein.

(Signed) MRS. L. E. WILLIAMS,
Individual and as natural tutrix of her minor son Earl Williams.

Sworn to and subscribed before me this 19th day of April, 1926.

(Signed) J. C. McGEE,
(Seal) Notary Public.

ORDER.

Considering the allegations of the foregoing petition and the annexed affidavit, let the foregoing supplemental and amended petition be filed, as prayed for and according to law, and petitioner be and she is hereby granted authority to amend her original petition, so as to set forth and declare plaintiff's citizenship herein.

New Orleans, La., April 21st, 1926.

(Signed) BEN C. DAWKINS,
Judge.

101 MOTION TO DISCONTINUE SUIT AGAINST CERTAIN DEFENDANTS

Filed Apr. 21, 1926.

(Title Omitted.)

On motion of Mrs. Lena E. Williams, widow of L. E. Williams, appearing herein individually and also as the duly appointed and qualified Natural Tutrix of her minor son, John Earl Williams, through Hiddleston Kenner, Archie T. Higgins and Max M. Schaumburger, her attorneys, and on suggesting to the Court that since the trial and verdict of the jury in this case, it has been discovered that the Court is without jurisdiction as to the individual defendants, J. B. Lindsley, Harold H. Wilcox, David Bein, Louis Levert and Louis F. Guerre.

And on further suggesting to the Court that the said defendants are not necessary or indispensable parties in this cause, and that this cause represents a separable controversy, and

Upon further suggesting to the Court that plaintiff desires to dismiss and discontinue this suit, insofar as it affects the individual defendants, J. B. Lindsley, Harold H. Wilcox, David Bein, Louis Levert and Louis F. Guerre, without prejudice to plaintiff's rights against the Great Southern Lumber Company the original defendant herein, and without prejudice to plaintiff's rights under the verdict in this suit, as against the Great Southern Lumber Company, original defendant herein;

It is ordered by the Court, that the individual defendants, J. B. Lindsley, Harold H. Wilcox, David Bein, Louis Levert and Louis F. Guerre, be and the same are hereby dismissed and discharged as parties defendant in this suit; and the suit is discontinued and dismissed insofar as they are concerned, without prejudice to plaintiff's rights against the Great Southern Lumber Company and the rights of plaintiff under the
102 verdict herein returned by the jury in her favor, both individually and as Natural Tutrix of her minor son, John Earl Williams, and against the Great Southern Lumber Company.

New Orleans, La., April 21, 1925.
(Signed) BEN C. DAWKINS,
Judge.

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103 MOTION OF GREAT SOUTHERN LUMBER COMPANY AND ORDER ALLOWING DEFENDANTS 30 DAYS FROM THIS DATE OF SIGNING OF JUDGMENT TO SETTLE AND PRESENT BILLS OF EXCEPTION.

Extract from the Minutes,
February Term, 1926.

New Orleans, Wednesday, April 21st, 1926.
Court met pursuant to adjournment.
Present: Hon. Louis H. Burns, Judge.
Present: Hon. Ben C. Dawkins, Judge.

Proceedings before Hon. Ben C. Dawkins, District Judge.

(Title Omitted.)

On motion of H. Generes Dufour and B. M. Miller, of counsel for Great Southern Lumber Company, defendant herein, counsel for the plaintiff being present:

It is ordered by the Court that a period of thirty days from the date of the signing of the judgment herein be allowed the defendants for the presenting and settling of bills of exceptions in this case.

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104 JUDGMENT.

Extract from the Judgment Book,
May Term, 1926.

New Orleans, Monday, May 17th, 1926.
Court met pursuant to adjournment.
Present: Hon. Ben C. Dawkins, Judge.

(Title Omitted.)

The above numbered and entitled action having been regularly tried before the Hon. Charlton R. Beattie, Judge, and a jury duly impaneled, and the said jury having on the 5th day of May, 1925, rendered a verdict in favor of plaintiffs and against the defendant, upon the merits in the sum of $50,000.00, with 5% interest thereon from judicial demand until paid, together with all costs of suit, which amount plaintiffs subsequently agreed to reduce by remittitur to the sum of $30,000.00, with 5% interest per annum from judicial demand until

paid, together with all costs of suit and a motion for a new trial having been filed and refused, it is accordingly:

Ordered, adjudged and decreed, that Mrs. Lena E. Williams, widow of L. E. Williams, individually and as the duly appointed and qualified natural tutrix of her minor son, John Earl Williams, plaintiffs in the above entitled and numbered suit recover of and from the defendant, the Great Southern Lumber Company, the full sum of Thirty Thousand ($30,000) Dollars, as damages with 5% interest per annum thereon from judicial demand until paid, together with all costs of suit to be apportioned between her and her said minor son in the proportion of Twenty Thousand ($20,000.00) Dollars with five 5% interest per annum thereon from judicial demand until paid, together with all costs of suit to the said Mrs. Lena E. Williams widow of L. E. Williams, individually; and Ten Thousand ($10,000.00) Dollars, with 5% interest per annum thereon from judicial demand until paid and all costs of Court, to the said Mrs. L. E. Williams, widow of L. E. Williams, as the duly appointed and qualified natural tutrix of her minor son, John Earl Williams.

105 Judgment and decree signed in open Court in the City of New Orleans, Louisiana, on this the 17th day of May, 1926.

(Signed) BEN C. DAWKINS, Judge.

106 MOTION AND ORDER PERMITTING DEFENDANT TO FILE DUPLICATE COPIES OF CERTAIN MISSING ORIGINALS.

Filed May 27th, 1926.

(Title Omitted.)

On motion of Dufour, Goldberg & Kammer, Delos R. Johnson and B. M. Miller, Attorneys for the defendant, and on showing to the Court that the following documents offered and filed in evidence by the defendant, on the trial of this cause, to-wit; affidavit and warrant against Sol Dacus, and affidavit and warrant against Bouchillon and O'Rourke, are missing from the files, and that the Clerk of Court is unable to find them:

It is ordered that the defendant be permitted to file copies of said documents and that the same be made part of the record of this cause.

New Orleans, May 27, 1926.

(Sgd.) BEN C. DAWKINS,

U. S. District Judge.

107 PETITION FOR WRIT OF ERROR AND ORDER ALLOWING SAME.

Filed May 28th, 1926.

(Title Omitted.)

To the Honorable the District Court of the United States for the Eastern District of Louisiana:

The petition of Great Southern Lumber Company, defendant in the above numbered and entitled cause, with respect represents:

I.

On the 5th day of May, 1925, a jury duly impaneled in the above numbered and entitled cause, found a verdict against the defendant, Great Southern Lumber Company, and its co-defendants J. B. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert and Louis F. Guerre. Thereafter, on motion of plaintiff, the defendants, J. S. Lindsley, Harold H. Wilcox, Dave Bein, Louis Levert and Louis F. Guerre, were dismissed and subsequently, to-wit, on the 17th day of May, 1926, a judgment in favor of plaintiff and against defendant, Great Southern Lumber Company, was entered and signed.

II.

In and by said judgment and in the proceedings had in this case prior thereto, certain errors were committed to the prejudice of the defendant, Great Southern Lumber Company, all of which will in more detail appear from the assignment of errors filed herewith.

III.

Great Southern Lumber Company, defendant, is entitled and desires to have this cause removed by writ of error to the United States Circuit Court of Appeals for the Fifth Circuit, holding session in the City of New Orleans, Louisiana, to have said judgment reviewed and reversed and meanwhile to have said writ of error act as a supersedeas and to have all further proceedings in this cause stayed.

108 Wherefore, Great Southern Lumber Company, defendant, prays that, in accordance with the law and the rules of the Court, a writ of error may issue to remove said cause to the United States Circuit Court of Appeals for the Fifth Circuit for the correction of said errors and the reversal of said judgment, and that citation according to law issue to plaintiff; that a transcript of the record of proceedings and documents in this case duly certified and authenticated, may be sent to the said United States Circuit Court of Appeals for the Fifth Circuit and that an order may be made fixing the amount of such security to be given and furnished by the defendant, plaintiff in error, conditioned as the law directs, said security to act as a supersedeas bond.

(Signed) B. M. MILLER,

(Signed) DELOS JOHNSON,

(Signed) DUFOUR, GOLDBERG & KAMMER,

Attys.

109 ORDER.

The defendant in the above numbered and entitled cause having presented its petition for a writ of error to review the proceedings in said cause and the judgment heretofore rendered and signed therein in favor of plaintiff and against the defendant, Great Southern Lumber Company, and having presented and filed with said petition its assignment of errors:

It is ordered that a writ of error be and the same is hereby granted and allowed, to the said Great Southern Lumber Company, to operate as a supersedeas, returnable as provided by law, upon the defendant, Great Southern Lumber Company, furnishing bond, conditioned as the law requires, in the sum of $42,000.00, to be approved by the Court and that, upon the filing of said bond, all further proceedings in this Court be suspended and stayed until the determination of said writ of error by said United States Circuit Court of Appeals for the Fifth Circuit;

It is further ordered that citation do issue to plaintiff according to law; that a transcript of the record proceedings and documents in this cause, duly authenticated and certified, be sent to the United States Circuit Court of Appeals for the Fifth Circuit.

(Sgd.) BEN C. DAWKINS,
Judge.

May 28th, 1926.

110 ASSIGNMENT OF ERRORS.

Filed May 28, 1926.

(Title Omitted.)

Assignment of Errors.

Now comes the defendant, Great Southern Lumber Company, and files the following assignment of errors upon which it will and does rely in and for the prosecution of this writ of error in the above numbered and entitled cause from the verdict of the jury and judgment rendered herein on the 5th day of May, 1925 and the 17th day of May, 1926, respectively:

I.

The Court erred in not dismissing plaintiff's suit for want of jurisdiction in the Court below.

II.

The Court erred in granting plaintiff's motion, made after verdict and at the argument of the motion for a new trial, to dismiss her suit against the defendants, Guerre, Bein, Wilcox, Lindsay and Levert, citizens of the State of Louisiana, and in not dismissing, for want of jurisdiction in the Court below, plaintiff's suit against the defendant, Great Southern Lumber Company.

III.

The Court erred in permitting plaintiff to amend her petition after verdict so as to show diversity of citizenship between herself and Great Southern Lumber

Company and in making the order permitting such amendment and in not dismissing plaintiff's suit for want of jurisdiction.

IV.

The Court erred in permitting plaintiff to amend her original petition after sustaining the exceptions of no right of action and no cause of action filed by defendant, Great Southern Lumber Company, to plaintiff's original petition.

111

V.

The Court erred in failing and refusing to sustain the exception, including the exception of no cause of action and no right of action, filed by the defendant, Great Southern Lumber Company, to the original and first supplemental petitions filed by plaintiff and in not accordingly dismissing plaintiff's suit.

VI.

The Court erred in failing and refusing to sustain the plea of prescription of one year under the laws of Louisiana, and particularly under Article 2315 of the Revised Civil Code of Louisiana, as amended, filed by the defendant, Great Southern Lumber Company, to plaintiff's first and second supplemental petitions, respectively, and accordingly in not dismissing plaintiff's suit.

VII.

The Court erred in failing to sustain the exceptions of the defendant, Great Southern Lumber Company, to plaintiff's supplemental and amended petition, which exceptions sets forth that said supplemental and amended petition was multifarious and uncertain and particularly in that it seeks and attempts to set up and set forth different and distinct alleged causes of action and alleged causes of action different from the alleged causes of action set forth in plaintiff's original petition.

VIII.

The Court erred in over-ruling and in failing to sustain defendant's motion made before the introduction of any testimony, that plaintiff be required to elect upon what causes of action plaintiff stood, as plaintiff's petition set forth distinct and inconsistent causes of action, to which action of the Court in overruling said defendant's motion defendant duly excepted and reserved a bill of exceptions.

IX.

The Court erred in failing and refusing to sustain the exception and objection made by defendant,
112 Great Southern Lumber Company, at the commencement of the trial and when evidence was sought to be offered on behalf of plaintiff in support of plaintiff's claim on the grounds (1) that plaintiff's petition disclosed no right or cause of action; and (2) that there was no suit or justifiable question before the Court, as the exceptions of no cause and no right of action filed by the defendant, Great Southern Lumber Company,

to plaintiff's original petition had been sustained by the Court below; and (3) that plaintiff's petition disclosed no cause or right of action; and (4) that plaintiff's suit and claim were barred by the prescription of one year under the laws of the State of Louisiana and particularly under Article 2315 of the Revised Civil Code of Louisiana, as amended, both as to her own individual demand and to her demand as natural tutrix.

X.

The Court erred in refusing and in failing to grant the motion of the defendant, Great Southern Lumber Company, made at the close of all of the evidence in the case and before the charge to the jury to direct a verdict in favor of said defendant and against plaintiff.

XI.

The Court erred in failing and refusing to grant the motion of defendant, the Great Southern Lumber Company, made at the close of all the testimony in the case and before the charge to the jury, for a direction of a verdict in its favor and against plaintiff dismissing plaintiff's suit, as the evidence conclusively showed and shows that Lem Williams was killed by police officers of the City of Bogalusa who went to Williams' place of business armed with warrants, issued by a Court of competent jurisdiction, for the arrest of three men whom the police and citizens reported to the police authorities of Bogalusa had taken refuge on Williams' premises.

113 XII.

The Court erred in failing and refusing to grant defendant's, Great Southern Lumber Company, motion, made at the conclusion of all the evidence in the case and before the charge to the jury, for a verdict in its favor and against plaintiff, dismissing plaintiff's suit, as the evidence failed to show (1) that any conspiracy to kill or injure Lem Williams was entered into or existed, but on the contrary conclusively showed that no such conspiracy did exist, or (2) that the Great Southern Lumber Company was party to any conspiracy to kill Lem Williams, or (3) that said Company participated in the execution or furtherance of any such conspiracy.

XIII.

The Court erred in failing and refusing to grant the motion of defendant, Great Southern Lumber Company, for the direction of a verdict in its favor and against the plaintiff, dismissing plaintiff's suit, made at the conclusion of all of the evidence in the case and before the charge to the jury, as the evidence failed to show that, even if any employee of the Great Southern Lumber Company was present at the shooting of Lem Williams, such employee was acting within the scope of his authority as an employee of the defendant, Great Southern Lumber Company.

XIV.

The Court erred in failing and refusing to grant defendant's motion for a new trial, and in over-ruling defendant's motion for a new trial, and in not granting defendant, Great Southern Lumber Company, a new trial

on the grounds stated in said motion and particularly on the ground that the verdict was contrary to the law and the evidence and the weight of the evidence.

XV.

The Court erred in failing and refusing to grant defendant's motion for a new trial and in over-ruling defendant's, Great Southern Lumber Company, motion for a new trial, as the verdict was and is contrary
114 to the law and the evidence and the damages awarded (only compensatory damages being claimed in the petition) are unreasonable and excessive and so large as to manifest bias and prejudice, on the part of, and willful disregard of the evidence by, the jury.

XVI.

The Court erred in not granting to the defendant, Great Southern Lumber Company, a new trial, after the Court had granted plaintiff's motion to dismiss her suit against the defendants, Guerre, Bein, Wilcox, Lindsay and Levert, after verdict and in permitting plaintiff to maintain her suit and retain the verdict against the defendant, Great Southern Lumber Company, alone, as it appears each of the above named defendants who were dismissed from suit after verdict on plaintiff's motion took the stand and testified in behalf of themselves and their co-defendant, Great Southern Lumber Company, and the Court later charged the jury that the testimony of the above five named defendants should be considered by the jury in the light of said defendants' interest in the suit and its outcome, as a result whereof plaintiff obtained a great advantage and defendant, Great Southern Lumber Company, was manifestly prejudiced,

as said defendants were held in the case until after verdict was rendered and their testimony given on the trial was impugned as being testimony of parties in interest.

XVII.

The Court erred in permitting Mrs. L. E. Williams, plaintiff, as a witness in her own behalf, to testify, over the objection of defendant, in form and substance as follows:

"Q. Don't answer anything that Carson said. Where was Carson at the time you spoke to him or where he made the statement to you?

"A. He was inside, right at the big gate of my property.

"Q. Was that during the time of the
115 shooting?

"A. Absolutely, just at the same time that they were all coming in and just as the shooting stopped. John Whittington tried to kill my brother-in-law, Jim Williams.

"Q. Was that at the time there was general excitement due to the shooting?

"A. Yes. Just—well, it was all at the same time.

Mr. Higgins:

If your Honor please, I believe I have laid the foundation for that statement.

Mr. Dufour:

If your Honor please, this witness was necessarily here during this trial and heard what the other witnesses said, which fixes this testimony at five minutes after. They were evidently together because they came from the same scene and went in the adjoining house. I submit it is not part of the res gestae.

The Court:

I had better let the evidence in, this is all so closely connected. I can't determine the credibility of the witnesses. It is exclusively for the jury, if there be any contradiction between them.

Mr. Dufour:

We reserve a bill.

"Q. What statement did he make at the time, Mrs. Williams?

Objection: Mr. Miller:

The same objection is made as to Mrs. Melancon. At all events, we have the right to more definitely fix the time.

The Court:

You mean you want to examine her on the time?

By Mr. Miller:

"Q. Mrs. Williams, you had been down to your father's house, and saw this trouble between John Whittington and Jim Williams which you testified to happened?

"A. It was the property of Mr. Williams, my father-in-law.

The Court:

Louder, please.

"Q. I was just asking you if you had not been to your father's house at the time it happened?

"A. Wasn't really at my father's house, it was just across, back of the building which adjoins.

116 "Q. You were with Mrs. Melancon and your sister-in-law?

"A. No, they come to me when I was hollering for mercy, when I saw these men murdering those men.

"Q. I am not asking you about that, I am just trying to fix the time. You don't have to tell it all over again. Now, did you leave there with Mrs. Melancon?

"A. Sir?

"Q. Did you and Mrs. Melancon come from there to your place together?

"A. We was coming up to see what they were going to do with Mr. Jim Williams.

"Q. Were you together when you came away and heard Mr. Carson make this statement?

"A. We was at the gate.

Mr. Miller:

Well, I submit to the Court—

The Court:

Just go ahead and find out. She has made it just at the time of the shooting.

By Mr. Dufour:

"Q. You heard Mrs. Melancon say that most of the crowd had left when this statement was made?

"A. What Mrs. Melancon said has absolutely nothing to do with what I heard.

"Q. Did you see Mr. O'Rourke at that time being taken away?

"A. I seen the people coming with Mr. O'Rourke, and he was bleeding and shot in the chest.

"Q. Where did you see him?

"A. He was coming out of the gate with that other man.

"Q. So when you spoke to Carson they were bringing O'Rourke out?

"A. I didn't exactly speak to Mr. Carson myself, but they were bringing O'Rourke out.

"Q. When that happened they were already bringing O'Rourke out?

117 "A. Sir?

"Q. When this conversation with Carson took place, they were already bringing O'Rourke out?

"A. Well, he didn't stay there so long after.

"Q. But he got out of the window, he was killed just about this time?

"A. He wasn't killed.

"Q. And some of the officers had gone to get him, and they were taking him out to the front gate to the automobile?

"A. I didn't see any officers there at all.

"Q. Well, some men were?

"A. Some of the gunmen.

"Q. How many of those gunmen as you call them—?

"A. Gunmen they sure was.

"Q. So when this conversation with Carson took place, O'Rourke was being taken to the hospital?

"A. I was coming in, they was with him.

"Q. And that was after you had left the house and gone as far as they said, you don't believe?

"A. I don't want any "you don't believe." I beg your pardon.

"Q. By your statement, you don't believe—?

"A. No, sir, I told you it wasn't as much as they said.

"Q. It was as much?

"A. I said it was not as much.

"Q. I thought you said it was as much. It wasn't as much, you don't believe?

"A. No, sir.

"Q. Then this conversation took place after you were in your father's house, and you came back and you saw them bringing out O'Rourke, and that is the time Carson is supposed to have said this?

"A. Yes, sir.

Mr. Dufour:

I submit, if your Honor please, it is not part of the res gestae.

118 By Mr. Higgins:

Where was Carson at the time you heard him make that statement?

"A. Inside of this gate there, at my big gate that leads into my property.

"Q. He was standing on your property?

"A. Yes, sir.

"Q. And had all of this shooting stopped at that time?

"A. Just about, yes, sir, because they had killed Mr. Williams, one of the men had killed Mr. Williams, and after they had killed Mr. Williams they were all shooting and there was great excitement, and I ran to the front hollering for mercy, and while I was there I looked at the window and I saw my brother-in-law, he was standing at the window, and I saw Johnny Whittington was going to shoot him through the gate, through the small gate, and I just run out of this big gate to get to that gate, and when he aimed to shoot Mr. Jim Williams, I threw the gun off and saved him, and when he tried it again my sister-in-law begged and prayed for his life, and he shoved her against the tree and he says, "Damn you, old woman, if you don't get inside we will do you all the same as we done these men."

Then we came back to Mr. William's place, Bob Carson was there with his gun, and that is the statement he made.

By the Court:

How long was that after the last shot was fired?

"A. Well, Judge, it wasn't so very long, because Johnny Whittington had just shot at Mr. Jim Williams when Mr. Jim Williams had his hands up, like that (witness illustrating).

"Q. How long would you say it was?

"A. Well, I would say maybe ten minutes, because it was done quick. It wasn't over ten or fifteen minutes, I don't suppose.

"Q. Was it in the yard of your husband's
119 property, or outside of the yard?

"A. Right at the gate, at the gate of my husband's property.

"Q. How far from the office where your husband was shot?

"A. You mean from the gate?

"Q. No, right where you met Bob Carson, where you and Bob Carson were standing, to the office where your husband was shot?

"A. Well it wouldn't be further than this courtroom. (Witness indicates.)

"Q. Where were the balance of the crowd that had entered that yard?

"A. There were some in the yard, some in the street—they were just all around at the time.

The Court:

I am going to let the witness state what he said.

Mr. Dufour:

We reserve a bill.

Mr. Higgins:

What did he say, Mrs. Williams?

"A. He said they had come to kill Lem Williams, and they had killed him.

"Q. By whom was Carson employed, do you know?

"A. The Great Southern Lumber Company.

"Q. Now don't answer the question till these gentlemen have a chance to object. What was Bob Carson's reputation for peace and quiet?

Mr. Dufour:

We object.

The Court:

I over-rule the objection.

Mr. Dufour:

We reserve a bill."

XVIII.

The Court erred in refusing to permit Charles Flournoy, witness for defendant, to testify, over the objection of plaintiff, in form and substance as follows:

"Q. Where did you see Sol Dacus?

"A. I saw him on Fourth Street, in Jew Town.

"Q. Was anybody else with him?

120 "A. There was.

"Q. Who was?

"A. Two men.

"Q. Do you know who they were?

"A. Mr. O'Rourke and Mr. Bouchillon.

"Q. What were they doing?

"A. They were walking along the side of Sol Dacus—

Objection: Mr. Higgins:

I want to object to that evidence as being immaterial. What have O'Rourke and Bouchillon got to do— walking along the side of the road with Sol Dacus—with case of Lem Williams?

Mr. Dufour:

The purpose of the evidence is— The answer sets up that Sol Dacus was walking along the street with Bouchillon and O'Rourke, both of whom were armed with shot guns, and they were making certain defiant remarks, and from there they went to the place of Lem Williams. The answer also sets up that the purpose of these men in going to Lem Williams' place of business was to arrest Sol Dacus, Bouchillon and O'Rourke for a violation of the public peace, that warrants had been issued for them; and now we are proving the circumstances under which that happened.

The Court:

I don't think you would have to show the offense if you show the warrants.

(Here follows argument.)

The Court:

You will have to show the affidavits and the issuing of the warrants, and that they were there in the execution of that warrant. I don't think the circumstances that led up to it, not connected with Williams, is evidence.

Mr. Dufour:

This was about an hour before the occurrence. It certainly would be competent to show existing conditions in Bogalusa for months previous to that,
121 to meet the testimony of Mr. Rowan.

The Court:
I don't see the relevancy.

Mr. Dufour:
We except your Honor's ruling and reserve a bill.

"Q. Where was Dacus going at the time you saw him?
"A. In which way was he traveling?
"Q. Yes?
'A. He was traveling first— he was traveling West— then he went north— and then he went northeast.
"Q. Where did you lose sight of him?
"A. Just as he turned east; just as he stepped off the side walk at Lem Williams' property.
"Q. Did you see him go in there?
"A. I saw him step off the sidewalk into this property of Lem Williams'.
"Q. Who was with him?
"A. Those two white men that had those guns in their hands. Mr. O'Rourke and Mr. Bouchillon.
"Q. Did you make any report of that occurrence?
"A. I did.
"Q. To whom?
"A. To the Chief of Police.
"Q. Who was the Chief of Police?
"A. T. A. Magee.
"Q. What remarks, if any, were made by any, or all of these men as they went down the street?

Objection: Mr. Higgins:
I object on the ground that it is perfectly irrelevant, and cannot, in any way, shape or form, bind Lem Williams; any statements made by Sol Dacus, O'Rourke or Bouchillon.

Mr. Dufour:

If your Honor please, we have got them in Lem Williams' office on the morning of the occurrence.
122 I submit the circumstances under which they went there and the fact that they had guns in their hands in going in their [there] is relevant to the issue of this case.

The Court:

Whatever the remarks are involved in this case I can see no relevancy in. I sustain the objection as to the remarks. I will permit you to show, or rather I will rule on it when the time comes, but my present impression is to permit you to show that Bouchillon and O'Rourke went into this office armed, because during that time— because that is a question that has been brought out in the case.

Mr. Dufour:

I except and reserve a bill.

"Q. What time of day was that?

"A. Between 11:00 and 12:00, to the best of my recollection.

"Q. Did O'Rourke and Bouchillon have anything in their hands?

"A. They had shot guns. Each one of them had a shot gun in his hand.

"Q. I understood you to say that you reported that incident to the Chief of Police?

"A. I reported, at once, to the Chief, what I had seen and heard.

"Q. Did you know whether or not, at that time, any warrant was out for the arrest of these men?

"A. Yes, sir.

"Q. For whom?
"A. For Sol Dacus.
"Q. From whom had you gotten that information?
"A. I had gotten it, indirectly, from the office, not directly.
"Q. Why didn't you arrest Dacus at that time?
"A. Well, I didn't feel disposed to take that chance with my life, considering the way they talked,
123 the language they were using when I met them; they defied anybody to touch Dacus, that is the reason I didn't.

Objection: Mr. Higgins:
I object to that.

Mr. Dufour:
I submit that is the explanation of why this officer didn't arrest those men for whom he knew there was a warrant outstanding.

The Court:
It is not shown that this witness had a warrant for Dacus' arrest. Why he didn't arrest Dacus or not is immaterial. I sustain the objection.

Mr. Dufour:
I reserve a bill."

XIX.

The Court erred in refusing to permit Charles Flournoy, witness for defendant, to testify, over the objection of plaintiff, in form and substance as follows:

"Q. Do you recall the arrest of Tom Ezell, some weeks before this occurrence?

Objection: Mr. Higgins:

I object to that on the ground that it is immaterial.

Mr. Dufour:

We propose to show that this man was arrested and that the deceased Lem Williams challenged the officers who were arresting him—

Mr. Higgins:

If your Honor please, I object to all of these statements made in the presence of the jury.

(Jury withdrawn.)

Mr. Dufour:

It is in evidence that Lem Williams was a peaceful and law abiding citizen, who was shot down in cold blood by these defendants; that testimony has been introduced. We propose to show by this witness that, on a number of occasions, including the one I am
124 referring to, Lem Williams accosted the officers who made the arrest, abused them, threatened them, threatened to burn down the jail and deliver the prisoner and do bodily injury to the officers. Now that is admissible, first, to meet the suggestion that this was a peaceful man who was shot down in cold blood, without any provocation whatever, and, secondly, to meet the evidence that was introduced that he was a law abiding citizen of good character. The further purpose of this evidence is to show the condition of tyranny that existed in Bogalusa; that the officers of the law were powerless or cowed by the acts of Lem Williams and his associates, and that they carried them so far as to interfere with officers in the discharge of

their duty and threatened them, threatened to bomb the jail and make delivery of the prisoners if their will was not recognized as superior to the law itself.

(Here follows argument.)

The Court:

I cannot see the relevancy of anything he may have done at any other time. The evidence as to Williams' reputation cannot be rebutted, as I understand, by evidence of specific offenses, so it is not evidence in rebuttal of his general reputation and it is not evidence relevant to the general issue, because, really, it would make no difference what he had done at any other time if they wrongfully killed him at that time.

Mr. Miller:

The charge is made that these people killed him, and it is charged there were a great many of them, more than ordinarily necessary for the making of an arrest of one, or two, or three men. That is an incident that plaintiff relies on as showing that this was done by a mob or in pursuance of a conspiracy. We wanted to show why it was that this number of men went, and why it was necessary that that number of men should go there for the purpose of executing a warrant which had been
125 placed in the hands of the officers of the law.

I presume what they are attempting to reason against is that they went with a mob or crowd, which was unnecessary for the simple purpose of executing a warrant of arrest against somebody. We want to show by this officer why it was necessary to go there the way we did.

The Court:

I will pass on that when I get to that, but this evidence is not admissible. I sustain the objection.

Mr. Dufour:
And I reserve a bill.

Mr. Dufour:
I will ask the stenographer to take this. I want to state that our purpose in offering this testimony is to show conditions existing in Bogalusa at the time of this killing, and several months prior thereto; to show how the deceased, Lem Williams, had frequently, during the period referred to, resisted the officers of the law, interfered with them in the discharge of their duties, attempted to make jail deliveries and threatened to storm the jail if the prisoners were not released, and that therefore, because of these conditions, known to the public authorities, on the day in question, for the purpose, presumably of enforcing the law, called in a squad of special officers to assist in making this arrest.

Mr. Talley:
If the Court please, in addition to that, on behalf of the individual defendants, we propose to show by this certain testimony, in answer to those allegations where they are charged with having murdered Lem Williams in cold blood, and where it says that they were members of a mob that assembled without cause, and where it is said that there was no occasion for blowing a whistle.

(Jury brought back.)

The Court:
I will exclude that evidence. I sustain the objection to the question asked, for reasons stated.

126 Mr. Dufour:
We reserve a bill.

"Q. At, or about, or shortly before the day of this killing, were you interfered with, in the discharge of your duties, by Lem Williams?

Objection: Mr. Higgins:
Your Honor, please, I think this is leading the witness.

The Court:
Well, that question has been ruled out.

Mr. Higgins:
Sure it has been ruled out, but I object on the further ground that it be ruled out.

Mr. Dufour:
Will your Honor rule on that objection?

The Court:
I sustain the objection for the reasons given in regard to previous questions.

Mr. Dufour:
I reserve a bill."

XX.

The Court erred in refusing to permit Charles Flournoy, witness for defendant, to testify, over the objection of plaintiff, in form and substance as follows:

"Q. Who was in the crowd?

Objection: Mr. Higgins:
We object on the ground that it is irrelevant, besides, you cannot prove character and reputation by specific acts.

The Court:
I sustain the objection.

Mr. Dufour:
We reserve a bill.

"Q. Was Lem Williams in the crowd?

Objection: Mr. Higgins:
The same objection.

127 The Court:
The same ruling.

Mr. Dufour:
We reserve a bill.

"Q. Who appeared to be the leader of the crowd?

Objection: Mr. Higgins:
The same objection, and I object on the further ground that it is merely an opinion of the witness.

The Court:
I sustain the objection.

Mr. Dufour:
We reserve a bill.

"Q. Who was the leader of the mob?

Objection: Mr. Higgins:
The same objection.

The Court:
The same ruling.

Mr. Dufour:
We reserve a bill."

XXI.

The Court erred in refusing to permit Charles Flournoy, witness for defendant, to testify, over the objection of plaintiff, in form and substance as follows:

"Q. You were asked, on cross-examination, if a breach of peace was committed in your presence by Bouchillon and O'Rourke on the day in question.

Objection: Mr. Higgins:
I object to any leading questions.

Mr. Dufour:
I am stating your question.

"Q. How did you answer that question?
"A. I said that there was.
"Q. Well, now, state what the breach of peace was.

Objection: Mr. Higgins:
I object to what anybody said. It is purely hearsay testimony.

128 Mr. Dufour:
Counsel brought out that there was a breach of the peace committed in his presence.

The Court:
I rule that out on the ground that it is inadmissible and immaterial and cannot be gotten in in this way.

Mr. Dufour:

If your Honor please, it has gone to the jury that there was a breach of peace; it was brought out on cross-examination, and I think it is competent to prove what the breach of peace was.

The Court:

It is for the purpose of having the witness to state what O'Rourke and Bouchillon said at the time they were walking up the street with Dacus; that is the evidence that I have ruled out as irrelevant and immaterial, and I will rule this out.

"Q. Were these men, on this occasion—state whether or not these men, O'Rourke, Bouchillon and Dacus, on this occasion, were defying you in the exercise of your authority?

Objection: Mr. Higgins:

I object to that as a leading question, putting the words in the witness' mouth.

The Court:

It is the same question that I have ruled out as immaterial to the question of the killing of Lem Williams, which took place at another time and place and some distance away. I sustain the objection.

Mr. Dufour:

I reserve a bill."

XXII.

The Court erred in refusing to permit Abner Magee, witness for defendant, to testify, over the objection of plaintiff, in form and substance as follows:

129 "Q. What did you do after you received a warrant for Bouchillon and O'Rourke, on the 22nd?

"A. Immediately after I received the warrant I telephoned to Mr. J. B. Lindsley.

"Q. Is that the Mr. J. B. Lindsley, one of the defendants, who sits in Court?

"A. He was Commissioner of Public Safety.

"Q. He was what?

"A. He was Commissioner of Public Safety.

"Q. Of the City of Bogalusa?

"A. Yes.

"Q. Was he a member of the Commission Council?

"A. He was.

"Q. Are you in his department, or were you in his department?

"A. Yes, sir.

"Q. You say you telephoned for him?

"A. I asked him to come over to my office immediately, I wanted to see him on very important business.

"Q. Did he come?

"A. He did. He came to my office in company with Mr. Jules LeBlanc.

"Q. What did you tell him?

"A. I told him that we had a warrant for Sol Dacus' arrest, and we had him located.

"Q. Did you mention Bouchillon and O'Rourke warrants too?

"A. Yes, sir, Bouchillon and O'Rourke. I told him I wanted him to do [go] down and arrest these men. We talked it over and we decided that we had better call the special officers in order to avoid any serious trouble, because we knew if we didn't go down there with a sufficient number of men—

Objection: Mr. Higgins:
I object to the opinion of the witness.

Mr. Dufour:
It shows his motive; did he go down for peace or did he go down for murder?

130 "Q. Why did you think it was necessary—

Objection: Mr. Higgins:
Wait a minute, I object as calling for the opinion of the witness.

The Court:
I think the witness can state the reason that he may have had for calling others to go down there.

"A. Because of the threats Lem Williams had made before.

Objection: Mr. Higgins:
Now, if your Honor please, there you are again. I move that the answer be stricken out and the jury instructed to disregard it.

Mr. Dufour:
He is the Chief Officer of the city. He is presumed, under the law, to be doing his duty in this case. There is no charge against him of participating in this murder. In this petition there is no charge of murder against him; on the contrary, he is extoled. It is said that the Chief of Police had nothing to do with this.

(Here follows argument.)

(Jury withdrawn.)

Mr. Dufour:

Here is the specific charge: "That said company had no excuse and no authority to employ this bunch of man killers on the pretext of observing and maintaining law and order, because Bogalusa, whose Mayor is the General Manager or an Agent of the Company, had its Chief of Police, and a large force to assist the Chief of Police, and the Sheriff of Washington Parish had given him six or seven deputies, sworn in and acting as Deputy Sheriffs, who were not called upon to act, in any manner, on that day, or at any other time, and that there was no threatened breach of peace; in fact, the Chief of Police and the Deputy Sheriffs in this town did not participate in this foul murder." Now, what we wish to produce is that the Chief of Police, who says, "I received a report from one of my subordinates that two men were walking down the street, with shot guns, with a negro between them, saying 'We would like to see any white S—— B—— who will come and take this man' or 'We would like to see the eye of any white S—— B—— who will touch this man'"—

131

Mr. Higgins:

You have not produced a scrap of evidence testifying to that.

Mr. Dufour:

Now, that is the breach of peace that was reported to the Chief of Police. The Chief of Police, in the exercise of his duty, causes warrants to be sworn out against these men and calls a special police officer, because he only has three men available. He calls in the Commissioner of Public Safety and special police officers to go and execute these warrants. We will prove by the Commissioner of Public Safety why he himself went.

We want to show by the Chief of Police that, fearing trouble, because of the threats of Williams and others, and the acts that had been going on, he and the Commissioner of Public Safety had agreed that he and the Commissioner of Public Safety would call on sworn police officers to come to his assistance, and that is what we are trying to prove. We are also trying to prove that the whistle which was blown was blown by prearrangement of the Chief of Police and the Commissioner of Public Safety with the company. It was the only alarm in the city, and these public officers went to the company and said, "When we need special policemen to assist us in these troublesome times, we would like for you to give the only alarm that can be given in this community, and that is the blowing of that whistle.

132 The Court:

The specific question up now is whether or not the witness will be allowed to state whether Lem Williams made any threats. In other words, I have permitted the witness to say, by reason of conditions prevailing, he felt, or he thought it was necessary to send a number of officers down there. He has already stated that, I don't think that evidence is admissible except for the purpose of showing that he had information such as made him, as a public officer, deem it necessary to send a body of men. Whatever threats Williams may have made before would have nothing to do with it; if he did nothing at the time, that would not justify the killing.

Mr. Miller:

I undersand your Honor goes far enough to say that the Chief of Police will be permitted to say that, on account of existing conditions, he felt it proper to send these special officers down instead of the regular police

officers. Does your Honor permit us to go further and show why it was that the Chief of Police thought so, not merely to let it stand on its bare, bald statement that he thought it necessary, but to show why he thought it was necessary?

The Court:

I don't think the jury are entitled to know why to the extent that it might prejudice them against Williams, if it is not a defense to his killing. I don't think the evidence is admissible except for the purpose of letting this man state, as an official, the conditions existing and the reports that came to him made him deem it necessary to summons these men to him. Now, what they did after they got there is another question. I will sustain the objection as to the threats of Lem Williams. You understand, Mr. Magee, you are not to state any specific acts or threats but just state that, from conditions, or reports made by your subordinate, you thought it necessary to send a body of men.

133 (Jury brought back.)

By Mr. Dufour:

"Q. Why did you think it necessary—

The Court:

The witness made some reference to threats of Lem Williams, and I am going to direct you to disregard that, and I am going to strike it out.

"Q. Why did you think it necessary to turn these warrants for Dacus, Bouchillon and O'Rourke over to the Commissioner of Public Safety and special policemen for execution?

"A. Well, because I thought with conditions as they were that it would be best to turn them over to the special officers.

"Q. What conditions do you have reference to?

"A. Well, the trouble, and so forth, that we had had around there for some time.

"Q. Was that state of mind based upon your experience?

"A. Yes, sir.

"Q. Was there any reports made from your subordinates, during that period, which reported that state of affairs—state of mind?

"A. Yes, sir, there was, from Mr. Flournoy.

"Q. The conditions which you speak of, when you speak of these conditions, do you have reference only to conditions that morning or general conditions?

"A. General conditions as existing for some time back.

"Q. How long back had these conditions existed?

"A. Why for a few months.

"Q. A few months?

"A. Yes, sir.

At this point the further taking of testimony was adjourned until Monday morning, April 27th, 1925, at 11:00 o'clock.

134 Monday, April 27th, 1925.

T. ABNER MAGEE was called for further examina- examination:

By Mr. Dufour:

"Q. Chief, on your examination on Friday, you stated that Patrolman Flournoy had reported to you on the morning, shortly before noon, on November 22nd, 1919,

of the doings of O'Rourke, Bouchillon and Dacus on Columbia Road; did you receive any information of those acts from any other sources?

"A. I did.

"Q. From whom?

"A. Mr. O. J. Sherman.

"Q. Who is he?

"A. The Chief of the Fire Department, and Jimmy Blanch.

"Q. Who is he?

"A. He is—he was in the restaurant business at that time; and several other citizens down there.

"Q. Do you recall their names?

"A. Mr. Greenburg and Mr. Goldman, and I don't know how many more, a bunch of people.

"Q. Did these citizens report to you any breach of the public peace by Bouchillon, O'Rourke and Dacus, on that occasion?

"A. They did. They said he was walking up—

Objection: Mr. Higgins:

I make the same objection as I made to the other testimony.

The Court:

Well, my ruling was that he could testify to any official acts and any other facts that he himself personally knew, and that made it, in his opinion as an official, advisable to send other men, besides the man holding the warrant to be executed. I don't know whether it is intended to go beyond that ruling or not.

(Jury withdrawn.)

136 Mr. Dufour:

I wish the stenographer to take this. We tender to prove by this witness that, from his subordinates, as well as from citizens of the community, reports came to him in his official capacity, reports of a menacing nature, not only tending to show that he committed a breach of the public peace, that breach of the public peace was then being committed, but reports to show that force, if necessary force of arms, would be used to resist the officers in the execution of the warrant which they, at that time, had for the arrest of Sol Dacus.

The Court:

My ruling has been and, so far as I can see, I think it is correct, that this witness, who is not one of the defendants but was the Chief of Police, will be permitted to testify that there was a condition, known to him personally or of which he had received reports, which would, in his judgment as an official, make it necessary for him to send for the execution of the warrant more than one, or more than two or as many as he thought it was necessary for the execution of the warrant. So far as the individual defendants are concerned, it seems to me it is entirely irrelevant as to them as to anything other than that they were called upon as special officers, if they were special officers, to assist the regular officers in the execution of the warrant, and I don't think it is relevant to prove any specific acts by any parties like O'Rourke, Bouchillon and others who are not parties to this suit. I have permitted, and will permit, this witness to testify, without stating what the facts were or what the reports were, that he had received such reports, either from his subordinates, or even from citizens as made it, in his judgment, advisable to call upon special officers to assist the regular officers in the execution of the warrant.

Mr. Dufour:
We reserve a bill of exceptions to the ruling of the Court."

136 XXIII.

The Court erred in refusing to permit Abner Magee, witness for defendant, to testify, over the objections of plaintiff, in form and substance as follows:

"Q. What was the nature of the offense with which the prisoners were charged whom the crowd attempted to deliver on that occasion?

Objection: Mr. Higgins:
Objected to as irrelevant and immaterial, and secondly that it is another attempt to get in specific facts.

The Court:
I think that is irrelevant and sustain the objection.

Mr. Dufour:
I reserve a bill.

"Q. Now, don't answer this question. Was Lem Williams in this crowd that attempted to make this jail delivery?

Objection: Mr. Higgins:
I object on the ground that it is an attempt to prove general reputation by specific facts; also, that it is immaterial and irrelevant.

Mr. Dufour:
I will state that the evidence is not offered for that purpose, but is offered to show conditions that existed in

Bogalusa back at this period and, therefore, to show that the motive and purpose the public officers and the special officers had on this occasion was only to enforce the execution of the law.

The Court:
This was several weeks or a month before. I think it is irrelevant.

Mr. Dufour:
We reserve a bill."

137 Wherefore, Great Southern Lumber Company, defendant and plaintiff in error, prays that said verdict and judgment be reversed and that a judgment be entered herein ordering and directing the Court below to enter judgment in favor of Great Southern Lumber Company, plaintiff in error and against Mrs. L. E. Williams, individually and as natural tutrix, defendant in error, dismissing defendant in error's suit, or in the alternatve, that a new trial be granted to Great Southern Lumber Company, plaintiff in error and defendant below.

(Signed) B. M. MILLER,

(Signed) DELOS JOHNSON,

(Signed) DUFOUR, GOLDBERG & KAMMER,

Attys.

138 BOND FOR WRIT OF ERROR.

Filed May 28, 1926.

(Title Omitted.)

Bond for Writ of Error.

Know all men by these Presents, That we, The Great Southern Lumber Company, as Principal, and Union Indemnity Company, as Surety, are held and firmly bound unto Mrs. L. E. Williams, individually and as natural tutrix of her minor son, John Earl Williams, in the full and just sum of Forty-two Thousand and no/100 ($42,000.00) Dollars, to be paid to the said Mrs. L. E. Williams, individually and as natural tutrix of her minor son, John Earl Williams, her attorneys, successors or assigns, to which payment, well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally by these presents.

Signed and dated this, the 28th day of May, 1926.

Whereas, lately at a regular term of the District Court of the United States for the Eastern District of Louisiana, sitting at New Orleans, in the said District, in a suit pending in said Court, between Mrs. L. E. Williams, individually and as natural tutrix of her minor son, John Earl Williams, as Plaintiff, and The Great Southern Lumber Company, as Defendant, cause No. 16,377 of the Law Docket of said Court, final judgment was rendered against the said The Great Southern Lumber Company, Defendant, and in favor of said Mrs. L. E. Williams, individually and as natural tutrix of her minor son, John Earl Williams, Plaintiff, and the said The Great Southern Lumber Company has obtained a writ

of error and filed a copy thereof in the Clerk's Office of the said Court to reverse the judgment of said Court in the aforesaid suit, and a citation directed to said Mrs. L. E. Williams, individually and as natural tutrix of her minor son, Defendant in Error, citing her to be and appear before the United States Circuit Court of Appeals for the Fifth Circuit, to be holden at the City of New Orleans, State of Louisiana, according to law, within thirty days from the date thereof.

139 Now, the condition of the above obligation is such, that if the said The Great Southern Lumber shall prosecute its writ of error to effect, and answer all damages and costs if it fails to make its plea good, then the above obligation to be void; else to remain in full force nad effect.

(Signed) THE GREAT SOUTHERN LUMBER COMPANY,

By DUFOUR, GOLDBERG & KAMMER, Its Attorneys.

(Signed) UNION INDEMNITY COMPANY,

By CHARLES E. LOEB,

(Seal)

Approved this, the 28th day of May, A. D. 1926.

(Sgd.) BEN C. DAWKINS, Judge.

140 BILLS OF EXCEPTION,

NOS. 1 TO 8, BOTH INCLUSIVE,

Filed May 28, 1926.

(Title Omitted.)

Bill of Exception No. 1.

Be it remembered, that on the trial of this cause, to-wit, on the 20th day of April, 1925, and subsequent days, before the Court and a jury, plaintiff offered, introduced and filed the following evidence, testimony and documents, to-wit:

Testimony of:

James W. Williams, W. T. Renfrow, A. G. Sumrall, Sam Felts, E. C. Rowan, Armand Bourgeois, Z. D. Nichols J. E. Pierce, Ernest Garner, Mrs. Bessie Burkett, Mrs. C. W. Hammond, Mrs. Helen Cobb, John W. Williams, Mrs. Susie Knight, John Langston, Jim Spiers, Arthur McAlister, Mrs. Ida Melancon, Mrs. James W. Williams, E. J. Dreyfus, R. L. Pittman, L. C. Trim, Toxie Ray Trim, Mrs. L. E. Williams.

And the following documents and exhibits, to-wit, numbered and identified as follows:

1. Sketch of locus in quo, marked "P—1."

2. Letters of Tutorship to plaintiff as Tutrix of John Earl Williams, marked "P—2."

3. Marriage Certificate of Plaintiff and L. E. Williams, marked "P—3."

4. Birth Certificate of John Earl Williams marked "P—4."

The defendant offered, introduced and filed the following evidence, testimony and documents, to-wit:

Testimony of:

Charles Flournoy, T. A. Magee, J. E. Branch, J. B. Lindsley, Major Louis Guerre, Wiley C. Magee, Jules LeBlanc, Dr. T. M. Brister, H. E. Willis, M. D. Stephens, O. J. Sherman, Dr. J. M. Brumfield, H. N. Simmons, H. J. Cowgill, F. W. Watts, D. C. Jones, J. H. Cassidy,
H. H. Wilcox, Dr. J. L. Brock, Bob Carson,
141 G. F. Foote, J. P. Sterns, E. R. Cassidy, K. I. Bean, Chess Mizell, R. A. Dunnaway, Louis Levert, W. H. Sullivan, Dave Bienn, Millard Justice, Robert Pittman, Otis Branch.

And the following documents and exhibits, to-wit, numbered and identified as follows:

1. Map and plan introduced by defendnat; marked Defendant—"X".

2. Affidavit against Sol Dacus.

3. Warrant against Sol Dacus.

4. Affidavit against Bouchillon and O'Rourke.

5. Warrant against Bouchillon and O'Rourke.

The plaintiff then offered, introduced and filed in rebuttal, the following evidence, to-wit:

Testimony of:

J. W. Weber, Joseph Bourgeois, George W. Moore, James O'Reilly, Albert Calhoun, W. W. Rawls, Z. D. Nichols, N. J. Hoey, Mrs. James W. Williams, James W. Williams, Mrs. Ida Melancon, Mrs. L. E. Williams, J. C. Brooks.

A transcript of which testimony and evidence (Marked Exhibit "A") and said documents are hereto annexed and made part hereof.

The foregoing evidence, testimony and documents being the entire evidence, testimony and documents in the cause on behalf of all parties, and all parties having announced that they had rested their respective cases, counsel for the defendant, in the presence of the jury, and before the jury had retired to deliberate, moved the Court to instruct the jury then and there to
142 render a verdict in favor of the defendant, Great Southern Lumber Company, and against the plaintiff, and said motion having been fully argued by counsel, the Court then and there, in the presence of the jury, denied said motion, and to the denying of such motion, counsel for the defendant then and there, in the presence of the jury, and before the jury had retired to deliberate, excepted and reserved this, its bill of exception, which was then and there duly noted, to the end that the matter might be put of record, and is now accordingly settled and signed nunc pro tunc as of date, the 4th day of May, 1925.

May 28, 1926.

(Sgd.) BEN C. DAWKINS.

Statement of facts approved. All rights reserved.
(Sgd.) A. T. HIGGINS, Attys.
5/26/26

143 NOTE.

Exhibit marked Plaintiff's EXHIBIT "P 1" being sketch of Locus in quo and DEFENDANT'S EXHIBIT "X," being a map and plan are transmitted to the United State Circuit Court of Appeals as per stipulation of counsel, copied at page 1198 of this transcript of record.

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144 EXHIBIT MARKED "P 2" BEING LETTERS OF TUTORSHIP TO PLAINTIFF AS TUTRIX OF JOHN R. WILLIAMS.

In the matter of the Succession of Lum E. Williams, deceased.

No. 371 of the Probate Docket of the 26th Judicial District Court of Louisiana, Washington Parish.

This is to certify to all to whom it may concern that on the 22nd day of January, in the year of our Lord, one thousand nine hundred and twenty one, A. D., application was made to the Honorable Prentiss B. Carter, Judge of the 26th Judicial District Court of Washington Parish, Louisiana, by Mrs. Lena Williams, praying that she might be admitted to take her oath as natural tutrix to her minor child, John Earl Williams.

Now know Ye, that the said Mrs. Lena Williams has been confirmed as natural tutrix to her aforesaid Minor child, and has on the 22nd day of January, 1921, taken her oath as such, and has complied with all the other requisites of the law.

Witness my hand, and the seal of the 26th Judicial District Court on the 22nd day of January, in the year of our Lord, one thousand nine hundred and twenty-one.

J. ADOLPH PIERCE,
Dy. Clerk of Court.

A true copy of the Original. This the 22nd day of Jany., 1921.

(Sgd.) J. ADOLPH PIERCE,
(Seal) Dy. Clerk of Court.

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145 EXHIBIT MARKED "P 3", MARRIAGE CERTIFICATE OF PLAINTIFF TO L. E. WILLIAMS.

Marriage License

State of Louisiana, Parish of Washington,

Twenty-sixth Judicial District Court.

To any Minister of the Gospel, Justice of the Peace or any other person legally authorized to celebrate Marriage Ceremonies in the Said Parish and State:

You are hereby authorized and empowered to unite in Holy Wedlock

Mr. Lemmie E. Williams

and

Miss Helena Richeons

and when you have so done, return duplicate thereof, within thirty days to this office as the law directs.

Given under my official signature this 22nd day of June, 1911.

(Signed) ..... A. THIGPEN,
Clerk of Court.

State of Louisiana,
Parish of Washington.

This is to certify that on the 25th day of June, 1911, I, the undersigned have celebrated the Marriage Ceremony between Mr. Lemmie E. Williams and Helena Richoux, and caused them to sign these presents in the presence of Earlie Bankston, Bernadette Richoux and Ailen Richoux, legal witnesses.

Witnesses:

(Sgd.) EARLIE BANKSTON,
(Sgd.) BERNADETTE RICHOUS,
(Sgd.) AILEN RICHOUX.

Parties:

(Sgd.) LEMMIE WILLIAMS,
(Sgd.) HELENA RICHOUX.

(Signed) REV. PAUL .....

146 EXHIBIT MARKED "P 4" BIRTH CERTIFICATE OF JOHN EARL WILLIAMS.

St. Louis Cathedral School.

Record shows:

Earl Williams — Born, June 10, 1912. Baptized at Annunciation Church, Bogalusa, La.
TERESIAN SISTERS.

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147 AFFIDAVIT FOR ARREST.

Filed May 28, 1926.

Affidavit for Arrest.

City of Bogalusa,
versus No. 4168
Sol Dacus.

In the City Court Bogalusa, Louisiana.

H.H.Wilcox, being duly sworn according to law deposes and says: On information received:

That one, Sol Dacus, late of the City of Bogalusa, Washington Parish, Louisiana, on or about the 21st day of November, 1919, within the said City of Bogalusa, Washington Parish, Louisiana, did unlawfully, maliciously and willfully be and appear as a dangerous and suspicious character, contrary to the ordinances of the City of Bogalusa. Contrary to the ordinances of the City of Bogalusa and contrary to the form of the Statutes

of the State of Louisiana, made and provided, against the peace and dignity of the same.

Wherefore, affiant prays that the said Sol Dacus be apprehended and dealt with according to law.

(Signed) H. H. WILCOX.

Subscribed and sworn to before me this 21st day of November, 1919.

(Signed) GUY V. RICH,
Clerk of the City Court of Bogalusa, La.

A true Copy.

(Signed) GUY V. RICH,
(Seal) Clerk of City Court.

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148 WARRANT FOR ARREST.

Filed May 28, 1926.

Warrant for Arrest.

City of Bogalusa
versus 4168
Sol Dacus.

In the City Court Bogalusa, Louisiana.

The State of Louisiana, to the Constable of the Fourth Ward of Washington Parish, Louisiana, or to any Deputy Sheriff of said Parish, or to any police officer of the City of Bogalusa, Louisiana.

Greeting: Whereas, a complaint has been made under oath, before the above Court, wherein it is charged and alleged that one, Sol Dacus, late of the City of Bogalusa, Washington Parish, Louisiana, on the 21st day of November, 1919, within the said City of Bogalusa, Washington Parish, Louisiana, did, unlawfully, maliciously and willfully be and appear as a dangerous and suspicious character.

Now, therefore, you are commanded forthwith to apprehend and bring before the City Court of Bogalusa, La., the body of the said Sol Dacus to answer the said complaint, and to be dealt with according to law.

Witness my official signature at Bogalusa, Louisiana, this 21st day of November, 1919.

(Signed) GUY V. RICH,
Clerk of the City Court of
Bogalusa, La.

A true Copy.

(Signed) GEO. LEAHY,
(Seal)

149 AFFIDAVIT FOR ARREST.

Filed May 28, 1926.

Affidavit for Arrest.

City of Bogalusa

versus No. 4169

J. P. Bouchillon, et al.

In the City Court Bogalusa, Louisiana.

J. E. Branch, being duly sworn according to law deposes and says: On information received:

That one, J. P. Bouchillon & S. J. O'Rourke, late of th City of Bogalusa, Washington Parish, Louisiana, on or about the 22nd day of Nevember, 1919, within the said City of Bogalusa, Washington Parish, Louisiana, did unlawfully, maliciously and willfully disturb the peace, and behave in a manner calculated to alarm the neighborhood. Contrary to the ordinances of the City of Bogalusa and contrary to the form of the statutes of the State of Louisiana, made and provided, and against the peace and dignity of the same.

Wherefore, affiant prays that the said J. P. Bouchillon & S. J. O'Rourke be apprehended and dealt with according to law.

(Signed) J. E. BRANCH.

Subscribed and sworn to before me this 22nd day of November, 1919.

(Signed) GUY V. RICH,
Clerk of the City Court of
Bogalusa, La.

A true Copy.

(Signed) GUY V. RICH,
(Seal) Clerk of City Court.

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150 WARRANT FOR ARREST.

Filed May 28, 1926.

Warrant for Arrest.

City of Bogalusa
versus 4169
J. P. Bouchillon et als.

In the City Court Bogalusa, Louisiana.

The State of Louisiana, to the Constable of the Fourth Ward of Washington Parish, Louisiana, or to any Deputy Sheriff of said Parish, or to any police officer of the City of Bogalusa, Louisiana.

Greeting: Whereas, a complaint has been made under oath, before the above Court, wherein it is charged and alleged that one, J. P. Bouchillon and S. J. O'Rourke late of the City of City of Bogalusa, Washington Parish, Louisiana, on the 22nd day of Nevember, 1919, within the said City of Bogalusa, Washington Parish,

Louisiana, did, unlawfully, maliciously and willfully disturb the peace and behave in a manner calculated to alarm the neighborhood.

Now, therefore, you are commanded forthwith to apprehend and bring before the City Court of Bogalusa, La., the body of the said J. P. Bouchillon and S. J O'Rourke to answer the said complaint, and to be dealt with according to law.

Witness my official signature at Bogalusa, Louisiana, this 22nd day of November, 1919.

(Signed) GUY V. RICH,
Clerk of the City Court of Bogalusa, La.

A true Copy.

(Signed) GEO. LEAHY,
(Seal) Clerk of City Court.

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151 (Title Omitted.)

Report of the proceedings had on the trial of the case before the Hon. Charlton R. Beattie, Judge, and a jury, commencing Monday, April 20, 1925, and continued pursuant to adjournments from time to time.

Appearances:

Messrs. A. T. Higgins, Max Schaumberger, Hiddleston Kenner, on behalf of the Plaintiff.

Messrs. Dufour, Goldberg & Kammer (Mr. Dufour), Spearing, Miller & Mabry (Mr. Miller), B. B. Talley, Delos R. Johnson, on behalf of the Defendants.

152 Monday, April 20, 1925.

Mr. Dufour:

I assume the situation which we now have to deal with is that which will arise when the first witness is sworn and some question is propounded. At that stage of the proceedings we would object to the introduction of any evidence on the ground that the petition discloses no cause of action. I don't know whether that is a full statement of situation on the ground, I might say, that there is no justiciable question before this Court, in view of the situation of this record, and therefore there fore there is nothing in support of which any evidence may be adduced. The situation is this:

(Here follows argument.)

The Court:

I am going to stand by Judge Foster's ruling. I imagine the question was not passed upon without thorough investigation by Judge Foster, and I don't want to reopen the question.

Mr. Dufour:

We will renew our objection at the proper time.

Jury called and pleadings read and hearing adjourned to the following morning at 11:00 o'clock.

153 JAMES W. WILLIAMS, sworn and examined as a witness for the Plaintiff, testified as follows:

Direct Examination:

By Mr. Higgins:

Q. What is your name?

A. James W. Williams.

Objection: Mr. Dufour:

If your Honor please, on behalf of the defendants, we object to the introduction of any evidence, on the ground that the petition, the original and supplemental petition in this case, disclose no cause of action, that there is no justiciable question before this Court, that the exception of no cause of action having been filed and sustained to the original petition, there was nothing before the Court which was subject to amendment, and that therefore all further proceedings, so to speak, are coram non judice.

The Court:

I overrule the objection.

Mr. Dufour:

We reserve a bill to the ruling of the Court.

Mr. Dufour:

On behalf of the defendants, counsel now present this motion (Counsel reads motion). We ask that the plaintiff be required to elect, and, in the alternative that her suit be dismissed.

The Court:

(After argument) I overrule the objection.

154 Mr. Dufour:

To which ruling we except and reserve a bill.

Q. Where did you live on November 22nd, 1919?
A. What is now called Columbia Street, Bogalusa.
Q. Are you related to a man named L. E. Williams?
A. Yes.
Q. Who was a resident of Bogalusa at that time?
A. Yes.

Q. What was the relationship?

A. Brother.

Q. Were you familiar with what happned [happened] to L. E. Williams on the date of November 22, 1919?

A. He was killed.

Q. He was killed; where?

A. At his residence on Columbia Street.

Q. You will have to talk louder so we can all hear you?

A. He was killed at his office at his house on Columbia Road.

Q. Are you familiar with the residence and the ground surrounding your brother's place of business and his home?

A. I was.

Q. I show you a sketch, and ask you if you can identify that as a correct representation of the grounds and the buildings of the place where your brother was killed on that day?

(Document in question handed to witness. Witness examines same.)

155 A. Yes, sir; I recognize that as a very good drawing of the section of the place on Columbia Road.

Q. Will you kindly point out where Columbia Road is on that sketch. Hold it so the jury can see.

A. This is Columbia Road; this is north and this is south (Witness indicates to the jury). This is Columbia Street; coming from the street, this is north and this is south; this is the office of my brother; this is the dwelling, the residence; this is the garage; this is the little

office he was killed in; there is the gate leading into this property from the street; this is a two story building sitting on the north side.

Q. Are the various buildings which are designated by different names correctly located on this map?

A. Yes, sir.

Q. Will you mark the dwelling, or the location of the dwelling, on the map, on this sketch?

A. (Witness does as requested).

Q. The double two story dwelling.

A. Just mark a cross, I suppose?

Q. No; just mark the dwelling "Two story dwelling."

A. Witness does as requested.)

Q. Is it correct that there is a gate to the house and a gate to the garage, leading into this property.

A. One gate, this gate. This gate would be most properly placed a little further this way (wit-
156 ness indicating). That is not quite correct. This gate should be placed a very little distance this way.

Q. Was there a separate gate to the house?

A. No, sir; that is, I don't think there was; I am sure there was not a gate.

Q. Now, where were you at the time of the alleged killing?

A. Well, I was sitting just right at the door of his office, to the right of the door as you go in there, as you enter the office. I was sitting inside of the door to the right.

Q. What happened at that time?

A. Then I could see the street from where I was sitting, you understand, looking out of the door, I was sitting at the door just inside. I saw several automobiles pass. The first time I saw them they were going on past and then I guess a minute or two after that, they passed back and I could see men getting out.

Q. Where were these automobiles, on what road?

A. They didn't have time to go far before they returned and this time they stopped and started unloading.

Q. Where did they stop at that time?

A. Right in front of the gate. Well, as many as could stop, stopped in front of the gate and they started unloading and rushing in to my brother's gate and shot.

157 Q. What gate did they enter?

A. This gate.

Q. Is that the gate marked, gate of the garage?

A. Yes, the gate entering his property from the street.

Q. Now, whom did you see entering the gate?

A. Well, I saw what they called the strong arm bunch of the Great Southern men who had been hired—

Mr. Dufour:

One minute. We ask that the witness be confined to facts and not conclusions and opinions.

A. (Witness continuing.) The minute I saw them I knew them, I was raised right up among those fellows and I knew them all.

Q. Will you name some of those you knew?

A. Wiley Macgee—he is the man that led the crowd —the two LeBlanc boys, Jules and Paul.

By the Court:

Q. The two what?

A. The two Le Blanc, Jules and Paul Le Blanc; Dr. J. M. Brumfield, a man by the name of Sibley—

By Mr. Higgins:

Q. Did you see any of the other defendants in this case, did you see Mr. J. B. Lindsley there?

Objection: Mr. Dufour:

I object if your Honor please.

158 Mr. Miller:

Read the names of the Defendants and ask him if they were there.

By Mr. Higgins:

Q. It is alleged in the petition that J. B. Lindsley, Harold H. Wilcox, Dave Bienn, Louis Levert and Major Guerre were present, did you see these gentlemen there?

A. I did.

Q. What happened after these men came inside of the gate? What happened after these gentlemen came in?

A. Then as I stated, Mr. Macgee and the two Le Blanc boys and Jim Brumfield, Sibley—some people was leading the bunch. The majority of the bunch stopped about midway of the property, midway of the lot between the office and the gate near a gasoline launch my brother my brother has stacked up on some bench on his lot, his property, and this fellow MacGee came on in with his gun in a shooting position, pointing to the garage, which threw him to the right of the door of the office where we were sitting and my brother gets up and comes to the door and he says, "Here I am, what do you fellows want." Macgee just left faced with his gun in a shooting position as he walked in there

and never lowered the gun at all. He turned around and shot my brother. The shot killed him, the first shot that was fired. After that there was a
159 volley of shots by the other fellows from the outside.

Q. What do you mean by the other fellows from the outside?

A. The bunch that was coming behind Macgee and when this fellow shot, they all started shooting right immediately.

Q. Did any of these others shoot?

A. I saw this fellow Jules Le Blanc, he shot at me, that was after these other men had been shot down at the office, and I saw him with a gun leveled at me. By that time he was in the door and I saw him. I had grabbed a little 22 Winchester, not even knowing if it had a shot in it, to save my life, seeing that I was going to be killed, even if I didn't shoot. I took the little 22 rifle, I didn't know whether it had any shots in it or not, and this fellow Le Blanc he had his gun leveled on me, but I beat him to it, accidentally, the gun did have a bullet in it and I shot to save myself. While I made a couple of shots—I don't know how many shots I fired—one or two, may be more—I wouldn't be able to say, but when I fired this rifle then all stopped shooting, which gave me the chance to put my gun down. I threw the gun down in the office and went out through the back window over into this lot where the two story building sits and threw my hands up and this
160 Whittington shot at me with my hands up.

Mr. Talley:

This testimony is going beyond the allegations of the petition. They have alleged he was killed and that is all. Now, the last few minutes of his testimony has been devoted to what he did after the killing.

Mr. Higgins:

If the Court please, this is all part of the res gestae at the time of the killing.

The Court:

I don't know at this time whether it is relevant or not. I will have to admit it and caution the Jury to consider only the relevant testimony so far as they can eliminate whatever is irrelevant.

Mr. Johnson:

We except to the ruling of the Court and reserve a bill.

By Mr. Higgins:

Q. Go ahead?

A. When I went through this window I got over into my father's property, that is the property that this two story building is sitting on, and there was a pile of pickets, wood, up against the pickets that partitioned these two properties, so I came over that pile
161 of wood and over the pickets with my hands up and this fellow Whittington shot at me with my hands up. He raised the gun and shot at me, but my-sister-in-law, by brother's wife ran into the gun and knocked the gun up, and he ran into me with the gun again and my wife knocked it away. Well, that I never saw of course, but I know he shot at me, I know that much. After that I came out and they put me in jail right away.

Mr. Dufour:

Now, if your Honor please, I submit that is not part of the res gestae.

The Court:
I don't think the arrest of this witness is material to this case.

Mr. Dufour:
I ask that it be stricken out and the Jury instructed to disregard it.

The Court:
Strike it out.

Mr. Higgins:
We reserve a bill.

Q. Did you see your brother when he came to the door of the office?
A. I did.
Q. Did he have a gun with him?

Mr. Talley:
If the Court please, that question is leading, he is just putting the answer into the witness's
162 mouth.

Mr. Higgins:
Q. I withdraw that question. What did he have in his hands, if anything?
A. Nothing, he was not armed, didn't have anything in his hands.
Q. Will you state what provocation your brother gave anybody for any shooting?

Mr. Dufour:
We object to his asking for the opinion of the witness as to what is a provocation.

The Court:

Just ask what he did or said.

By Mr. Higgins:

Q. How long had you been at the office with Mr. Williams?

A. About forty minutes I suppose, forty-five minutes, may be an hour, I will say an hour.

Q. Who was present at the time you were there?

A. At the time of the shooting, the killing?

Q. Yes.

A. Why my brother, a fellow by the name of Bouchillon, O'Rourke, I don't know his initials, a fellow by the name of McAllister, a fellow by the name of Bourgeois and Clay Richau and myself.

Q. What was L. E. Williams doing at that time?

A. At the time they came in?

163 Q. Yes.

A. He was typewriting on his typewriter, sitting down at his desk in the office.

Q. What conversation, if any, took place between Macgee and your brother before any shots were fired?

A. None whatever. There was no conversation at all. My brother stepped to the door, Macgee was standing right opposite the door with his gun in shooting position pointing at the garage. My brother came to the door and asked him, he says, "Well, here I am, what do you want, and Macgee just ran right around, he hadn't seen my brother until he spoke—it seemed he didn't until my brother spoke to him, he seemed as he just went around as if he had never seen him and fired on him.

Q. In what position was your brother's arms and hands at the time he went to the window?

A. Why it seems—well, I remember he had one hand up on the door casing and the other was down at his side.

Q. Did he have anything beyond his shirt?

A. No, he didn't have anything, he was in his shirt sleeves, his shirt sleeves were rolled up.

Q. Did he have any kind of weapon with him at all?

A. None that I could see.

164 Q. Did anybody else in the office have a weapon?

A. I didn't see them.

Q. Was anybody else killed that day?

A. Yes, sir.

Q. Who?

A. Bouchillon, Tom Gaines was killed outright, died that day, O'Rourke, Clay Richan was shot, wounded, he died later.

Q. Did I understand you to say that Richan was wounded?

A. Yes, sir.

Q. What position did you hold over at Bogalusa at that time?

A. At that time, right at that time I was not working, I had been working for the city in the fire department but the Chief told me—

Mr. Dufour:

We don't care what the Chief told you. Don't say what anybody else told you.

A. I had been working in the fire department, I don't think I was fired, but I was not working.

By Mr. Higgins:

Q. Did you, or did you not hear the siren whistle blow on that day?

A. I did.

Q. What time was that?

A. It must have been between 12 and 1, somewhere in the neighborhood of 12 o'clock.

Q. Who owns that whistle?

165 A. It is on the Great Southern plant.

Q. How long after the whistle was blown was it that you saw this man come in the gate?

A. Well, I suppose somewhere in the neighborhood of thirty minutes, 25 or 30 minutes, I would not say exactly, between 12 and 1 o'clock.

Q. Did you hear any shots fired prior to the time that you heard Wiley Macgee fire his gun?

A. I did not.

Mr. Dufour:

I submit that is leading if the Court please. I don't want to delay the trial but every question counsel asks is practically calling for a specific answer.

By Mr. Higgins:

Q. What was the first shot that you heard fired?

A. The shot that killed my brother.

Q. Who shot that?

A. W. C. Macgee.

Q. What kind of a gun did he have?

A. He had a pump gun, a pump shot gun as well as I can remember, it looked like to me. I can't swear to that but it looked like a double—single barrel pump gun.

Q. In whose employment was Wiley Macgee at that time?

166 Mr. Talley:

Unless he knows of his own knowledge; I would like the Court to instruct the witness he can only testify from his own knowledge.

The Court:
You must tell only what you know of your own knowledge.

A. He had been working in the paper mill previously, before the paper mill shut down—

Mr. Dufour:
If your Honor please I want that to be stricken out.

The Court:
Your question is who he was working for?

Mr. Higgins:
At the time of the trouble?

By the Court:
Strike out that part of the testimony referring to previous occasions. I don't know how long ago it was.

Mr. Higgins:
Q. Do you know of your own knowledge whether or not Macgee was employed by the Great Southern Lumber Co.?

Mr. Dufour:
We object, that is denied as a matter of fact, the allegations of the petition, all of them are material and we should have this testimony without suggestions
167 from Counsel.

The Court:
You can ask him what he was doing.

By Mr. Higgins:

Q. What was Macgee's employment on the day of the killing?

Mr. Dufour:

If he knows.

Mr. Higgins:

Q. Of course, if you know?

A. I would not be able to say if he was working for the company, or who he was working for, I don't know of my own knowledge.

Q. In whose employ was Macgee since he was in Bogalusa?

Objection: Mr. Dufour:

We object, the petition charges he was our employee, and the answer alleges he was not, that he was a special officer working for the city of Bogalusa. Now, we want to know from this witness whether he can swear to the allegations of the petition that he was so employed. That is a very distinct issue, the witness says he can.

Mr. Higgins:

If your Honor please, I think it is relevant to show, if possible, by this witness, I can ask him the question and he can answer yes or no whether Macgee was in the employ of the company all the time. If he says he does not know that would answer it.

168 The Court:

Well, that would be rather a conclusion or opinion, unless he states what he knows, and how he knows it.

Mr. Dufour:
He says he does not know.

The Court:
He says he did not know what he was doing that day.

By Mr. Higgins:
Q. Did you have an occasion to see Macgee anywhere else on that day?
A. No, sir, I did not, that was the only time I seen him that day.
Q. Had you seen him any place, and do you remember the place, the day before the killing?
A. I don't remember—no, sir, I did not.
Q. Did you recognize any of the employees of the Great Southern Lumber Company present at the killing with him?
A. I did.

Objection: Mr. Dufour:
We object to that as patently leading. He asked him who was at the killing and then he asked him if he was an employee of the Great Southern Lumber Company. The answer to that can presuppose the knowledge of who the employees were. He has got to ask who was it came, and then ask if he was
169 an employee. The first question is a conclusion and the second is leading the witness. I ask that the answer be stricken out.

Mr. Higgins:
I understand.

The Court:

Wait a minute. I will strike that answer out giving to Plaintiff's Counsel the right to ask him who he saw there and then establish by evidence whether or not the man was employed by the Great Southern Lumber Company.

By Mr. Higgins:

Q. Did you see Major Guerre there that day?
A. I did.
Q. What was he doing?
A. You mean the day of the killing?
Q. Yes.
A. He was there, I saw him with a gun.
Q. Did you see J. B. Lindsley there?
A. I did.
Q. Did he have anything in his hands?
A. He had a gun.
Q. Did you see H. H. Wilcox there?

Mr. Talley:

If the Court please, that is the same form of questioning your Honor has previously ruled out, because it is certainly leading.

By Mr. Higgins:

Q. What did he have in his hands?
A. A gun.
170 Q. Did you see anything in Dave Bienn's hands?
A. I did.
Q. What was it?
A. A gun.
Q. Did you see anything in Louis Levert's hands?
A. Yes, sir.

Q. What was it?

A. A gun.

Q. Do you know whether or not these men fired these guns?

A. I do not.

Q. What position, if any, did Major Guerre hold, if you know?

A. I understand he was superintendent of the saw mill, superintendent of the Great Southern Lumber Co., of the plant.

Mr. Dufour:

We admit that in the answer.

By Mr. Higgins:

Q. What position did Paul Le Blanc hold at that time?

A. Assistant Superintendent as far as my knowledge goes.

Mr. Dufour:

We deny the other man was an employee. He says Superintendent so far as my knowledge goes. We reserve the right to ask the Court to strike that answer out, if he has no knowledge.

By Mr. Higgins:

Q. Have you ever seen Major Guerre acting in the capacity of the Superintendent of the mill?

171 Mr. Miller:

We admit that.

Mr. Dufour:

Guerre was the superintendent of the mill, we admit that.

By Mr. Higgins:

Q. Have you ever seen Jules Le Blanc acting in any capacity for the mill?

A. Jules?

Q. Yes.

A. No, sir; I did not.

Q. Did you ever see Paul Le Blanc acting in any capacity for the mill?

Mr. Talley:

If the Court please, a man may have worked for us ten years ago, I believe he did, but he may not be working for us now.

The Court:

I will let him ask one question at a time.

By Mr. Higgins:

Q. Read the question?

(Question read.)

A. Give me that question again please?

Q. (Question read second time.)

A. Well no, I can't say I know that Paul Le Blanc was employed at that time, because I never worked at the saw mill, I only worked at the paper mill. I understood Le Blanc was at the—

Mr. Dufour:

Wait. We object to what he understood as part of the hearsay evidence. We are not trifling with
172 the Court if your Honor please. We have distinctly denied there was any such employment.

Mr. Higgins:

I am not trifling either. I will try to tell the witness not to state what he does not know of his own knowledge.

The Court:

Mr. Williams, do not state what you understand unless you can give some season or facts for the understanding.

By Mr. Higgins:

Q. Did you see anybody else present at the time when these men came in, when the shooting took place besides the parties you have mentioned?

A. I did.

Q. Name them?

A. Frank De Courcy, Jim Rogers—

By the Court:

Q. Frank who?

A. De Courcy.

Q. How do you spell it?

A. D e C o u r c y. Then C. Rich, I believe his initial is.

By Mr. Dufour:

Q. Rich, R i c h?

A. R i c h, yes, Nick Jenkins, Dr. Brumfield, J. M. Brumfield; I mentioned him I believe, R. H. Lambright.

173 By Mr. Higgins:

Q. Well, who else?

A. The names cannot come to me as fast as I would like them to. That is all I remember seeing there just now.

Q. How many men were present, if you know?

A. I can't say, I can't suggest as many as somewhere around 50 or 75 men, I can't say how many there were.

Q. Did you notice whether they were all armed?

A. I didn't notice whether they were all armed or not.

Q. Do you know by whom Mr. Lambright was employed?

A. Yes, by the Bogalusa Paper Company.

Q. Do you know that of your own knowledge?

A. I do.

Q. What position did he hold?

A. Superintendent.

Q. Now, who owned the Bogalusa Paper Mill?

Objection: Mr. Talley:

I object to that, he don't know anything about that corporation.

Mr. Dufour:

It is charged these men were the agents of the Great Southern Lumber Company, that is the charge we are called upon to meet. We object to any other form of proof that they were our agents acting within the scope of their authority. We do not know anything about the Bogalusa Paper Company. It may have
174 some affiliation but it is not this Defendant.

The Court:

Not the same company

Mr. Dufour:

No, sir, absolutely not the same company. I personally know nothing about it.

By Mr. Higgins:

Q. On whose property is the siren whistle, that you heard blown that day, located?

Mr. Dufour:

Will your Honor sustain my objection?

The Court:

Yes.

A. The Great Southern Lumber Company.

Q. Do you know by whom that whistle was blown that day?

A. I do not.

Q. Was that the usual time at which that whistle is supposed to be blown?

A. It was not.

Q. At what time was it customary to blow the whistle and for what purpose?

A. Just at 6 o'clock in the afternoon and as a fire alarm only.

Q. Why did it blow at 6 o'clock in the evening?

A. To knock the employees off.

Q. At what place?

A. All over the plant.

Q. What plant?

A. The Great Southern Lumber Company's plant.

Q. And it was given also as a signal for fire?

A. Yes, not a signal, an alarm.

175 Q. Did you see any fire arms in your brother's office that morning?

A. I did not.

Q. Did you see any ammunition there?

A. No.

Q. How much a man was this Wiley Macgee?

A. I would judge him to be at around 175 or 200 pounds.

Q. How much a man was your brother, Lem Williams?

A. I guess he would weigh about 150, 160, somewhere in that neighborhood.

Q. How old a man was he?

A. He would have been 31 next birthday.

Q. What was the condition of his health?

A. Apparently he was in good health.

Q. Had he ever been sick?

A. He had been sick a few days before, he had fever, probably confined to his bed a couple of days before this happened.

Q. Was he usually sick, or was he occasionally sick?

A. Just occasionally sick.

Q. What business was he engaged in?

A. Garage and repair shop, auto repair shop.

Q. What other business did he hold, if any?

A. He was President of the Central Trade Council Labor Organization.

Q. Do you remember whether he ever had any difficulties with any of these men you have identified as being parties to the killing before that time?

176 A. None that I know of.

Q. What was his general reputation of peace and quiet?

A. Why he never had any trouble with any one, he was peaceable, I don't know that he had an enemy here.

Q. Do you know whether he ever had been arrested over there?

A. I do. He had been arrested a couple of weeks before that.

Q. On what?

A. Disturbing the peace.

Q. Do you know who arrested him?

A. No, I don't know who arrested him, but they put him in jail.

Q. Did he submit to arrest, or was their [there] a fight or disturbance?

Mr. Dufour:

What are you going to do, going into some previous arrests not alleged in the petition?

Mr. Higgins:

It is alleged in the answer.

Q. What was your answer to that?

A. It was, I understood he was arrested a couple of weeks before he was killed, over at the job with four others for disturbing the peace.

Q. Did he submit to arrest, or did he resist?

A. I was not there.

Q. Well, you cannot testify to that then.

177 Do you know whether your brother was married?

A. He was.

Q. Did he have any children?

A. One.

Q. What was its name?

A. Earl.

Q. How old is he?

A. He was about five years at that time.

Q. Will you kindly point out on this map where your brother lived, his residence?

(Counsel hands witness map and witness examines same.)

A. This is his residence here. (Witness indicating.)

Q. And where did your father live?

A. He lived next door, this residence here (witness indicating), next door.

Q. State whether or not there is any space between the fence enclosing your brother's yard and this building?

A. One fence—no, there was no fence here at that time.

Q. Is there any building back there, was there any buildings in there of any kind?

A. Yes, sir, there were some houses back here.

Q. What buildings, if any, are back here?

A. One building sits back here.

Q. What buildings, if any, are on this side of the property?

A. One sits here on the corner, there is a residence.

Q. Now, do you know where the body of Gaines was found?

A. In the garage—no, I don't know where it
178 was found, I can't say.

Q. Where was he at the time the shooting took place?

A. He was working in the garage, back here in the garage some place. I can't just locate where.

Q. Do you know what he had in his hands at the time they found his body?

A. I do not.

Q. Where was the body of O'Rourke found?

A. O'Rourke was not killed then.

Q. I mean Bouchillon?

A. In the office here, in this place there, his leg was hanging over a chair like this (witness illustrating).

Q. What part of the building was he sitting in?

Mr. Dufour:

If he got up the way he says, I wonder how he knows.

A. The body was sitting back in here to the left of the door as you go in. There was the door here, he was sitting back in here. There is a desk there pretty well on this side all the way across. There wasn't much room to sit on this side of the door.

Q. What became of the other men that were present, what became of them?

A. Well, they got out and got away, left somewhere,
I believe the darkies took O'Rourke away, I
179 don't know where they went, they put me in
jail right away.

Q. What were O'Rourke, Bouchillon, Gaines, your brother and Richan doing at the time these men came through the gate?

A. Sitting down in the office.

Q. What were you folks doing in this office?

A. I had been up to the barber shop to get a shave and on the way back I was weak, having a fever a couple of weeks back.

Q. You must talk louder Mr. Williams?

A. I had been to the barber shop on Columbia Street and got a shave and on my way back home, I stopped in there to rest a while, that is what I was doing, and as far as the other fellows were concerned, it was the headquarters for the men to do their business, the Labor Organization, the Secretary, that was his headquarters and they all came there to pay their dues, those men came there to pay their dues.

Q. What were the positions of the men at that time?
A. In the office?
Q. Yes.
A. Well, I just can't say exactly where they sat, it was a very little office, it is not very high, I
180 guess 8 x 10 and they only had a part of it to sit in, the desk covered pretty nearly one side. They must have been sitting there close together, I just can't describe the positions they were sitting in.

Cross Examination.

By Mr. Miller:

Q. Mr. Williams, you said you were at the barber shop just before this occurrence?
A. How is that?
Q. Did you not say you were at the barber shop just before this occurrence you have been testifying to?
A. I had been to the barber shop and on my way back I stopped at my brother's office.
Q. What was the barber's name?
A. I think it was Palmer's barber shop.
Q. What?
A. Palmer, P a l m e r, I believe he spells his name.
Q. Who was the barber that was shaving up on that occasion; was his name Bass, Arthur Bass?
A. I wouldn't be able to tell you what his name was.
Q. You know Arthur Bass don't you?
A. Yes, I know him.
Q. You knew he was a barber too?
A. I don't know if he was there, I don't know if he was a barber at that time.
181 Q. Now, at that morning did you see O'Rourke or Bouchillon before you saw them up at your brother's place?
A. I saw them close to the office on my way back.

Q. I ask you if you saw them before that?
A. No, sir, I did not.
Q. Didn't you see them down on Columbia Road?
A. I did not.
Q. Are you sure of that?
A. I am.
Q. Did you see Dacus at any time down there on Columbia Road while you were in the barber shop?
A. I did not.
Q. And you did not see O'Rourke or Bouchillon while you were in the barber shop?
A. I did not.
Q. I want you to look at that sketch just a minute. Is that the correct place where your doorway was in the middle of the office?
A. It is on this side of the building somewhere in the neighborhood of that. I wouldn't say that is right.
Q. You wouldn't say that is the correct place where that door was?
A. It was on this side in the neighborhood of that vicinity.
Q. You have drawn it right there, practically in the center?
A. I didn't do it.
Q. Or whoever did it. Now there is the
182 door (counsel indicating). Now does that door open in or out?
A. It opens in.
Q. You are sure of that?
A. Yes, sir.
Q. Positive?
A. I am.
Q. Where were you sitting when these men came—you have drawn it there as opening in, or whoever drew it—
A. Yes.

Q. Now then, where were you sitting?

A. In front of this door when it was open, right by the door.

Q. The door opened like this, like it is shown there?

A. No, the door couldn't have been like it is shown, because I couldn't have been sitting in the doorway here.

Q. If you had been sitting you couldn't have seen through the door?

A. No.

Q. How does the door open, that way or the other way?

A. The door opens just like it is shown there. It opens inside, the door was wide open, I was sitting in front of the door.

Q. Was the door back against the wall?

A. As far as it would go, it couldn't go to the wall because there was a desk there.

Q. And you were sitting there.

A. In front of the door, this door where it opens all the way back to this desk, I was sitting right
183 up against the door.

Q. Where was your brother sitting?

A. Sitting over here somewhere in the center of the office.

Q. I thought you said the desk was up here?

A. He had the desk, that is a typewriter here.

Q. Do you know where the rest of them were sitting?

A. Back in this part of the office.

Q. The front of the office?

A. That is the front here.

Q. Well, that end of the office?

A. Fronting the door.

Q. Sitting there?

A. Yes.

Q. Now, about where was Macgee and Le Blanc and those fellows that went up ahead, standing when your brother came to the door?

A. They just walked up opposite this door, the garage door, and also opposite this door, it was pointing at this door that opened into the garage.

Q. The people that were with him were standing—

A. Back here, those fellows by the name of Le Blanc, the two Le Blancs, and Brumfield and Sibley were in here, and the remainder of the bunch were back further, back toward the street.

Q. Was Macgee standing by himself?

A. These other fellows were right behind him, he was leading.

184 Q. And they were about opposite this door and opposite that door (counsel indicating)?

A. Macgee was, yes.

Q. And the others?

A. Were right behind him, right in the same neighborhood.

Q. They were about here?

A. Right here, yes, sir.

Q. Opposite the two doors?

A. Opposite the two doors.

Q. And about how far from that door were they, the door into the office?

A. About I guess eight or ten feet.

Q. And when your brother Lem got up there, from where he was sitting at this desk, he walked to the door?

A. He did.

Q. Did he lean in the doorway?

A. He was always in the doorway, with his hand up against the door casing.

Q. Did he step out on the steps?

A. He did not.

Q. How many steps are there?

A. No steps at all that I remember, it was very low on the ground.

Q. He was standing in the doorway?

A. Yes, sir.

Q. You were sitting somewhere back about that—

A. I was standing right back by the door,
185 as I explained, right by this door, in front of the shutter of the door (witness indicating) I was leaning back and put my hands over it like that (witness indicating) so that I could see out the door.

Q. When your brother got up and stood in the doorway you didn't have to crane your head over him to see what was going on?

A. I don't know if he got to the door—

Q. When your brother got in the doorway, he pretty nearly filled the doorway up?

A. He didn't get right in the door, he just came in the neighborhood of the door.

Q. You stated a minute ago he was standing in the doorway with one hand on the side of the door?

A. When I said in the door, it should have been at the door.

Q. And you don't mean he was standing in that doorway?

A. He was standing at the doorway, and could talk out of the door.

Q. Practically inside of the room, wasn't he?

A. Well, he was in clear view from the outside.

Q. And you couldn't see right past him?

A. Certainly I could see.

Q. Didn't his standing there obstruct your view at all?

A. No, sir.

Q. That is a small doorway, isn't it?

A. It is a small doorway, yes, I suppose it
186 is.

Q. About two feet six?

A. Two feet six, something like that.

Q. And his standing there didn't obstruct your view at all?

A. No, sir, I could see the man that fired the shot that killed him very plainly from where I was sitting.

Q. And you didn't hear anything said by anybody before that shot was fired?

A. I did not, I heard my brother say, "Here I am, what do you fellows want?"

Q. Well, to whom, in response to what question did he say, "here I am?" Didn't somebody ask if he was there?

A. If he did I never heard him. Probably he must have saw Mr. Macgee come there with his gun and pointing at the garage and naturally he thought he must have been looking for some one.

Q. Had Dacus been in there a little while ago?

A. If he had, I did not see him. He was not when I was there.

Q. He had gone away?

A. If he had been there, he was gone away.

Q. Well, you know he had been there?

A. I do not.

Q. Didn't you see Bouchillon and O'Rourke that morning accompanying him up the street toward your brother's place?

A. I did not.

Q. Are you positive about that?

A. I am.

Q. Could you swear positively that no one
187 said anything to your brother before he was shot?

A. I never heard it if he did.

Q. You didn't hear Wiley Macgee speak to him at all?

A. I did not.

Q. Didn't you hear Wiley Macgee say, "We have a warrant, put down your gun, we don't want to hurt anybody?"

A. I did not.

Q. You swear he did not say that?

A. I do.

Q. Now, you say he just simply turned and shot him without saying a word?

A. He said, "We are after you, and he fired."

Q. He said "We are after you?"

A. He did.

Q. You didn't tell us that before. Now, when did he say that, just before he fired?

A. Just a second before he fired.

Q. You say now that Macgee said to him, "We are after you?"

A. As he fired on him, just before he fired he says —he came in with his gun pointing to the garage, and my brother went to the door and says, "Here I am, what do you want," and he says, "We are after you," and he plugged him.

Q. Why didn't you think of that before?

A. I didn't have time to think, do you mean—

Q. Right now, what you have just been telling the Jury?

A. I beg pardon, Mr. Miller—

Q. You didn't think that was important?
188 A. How is that?

Q. You didn't think that was of any consequence?

Mr. Higgins:

I think that is immaterial, if your Honor please.

The Court:

He has a right to cross examine him.

A. If I didn't think of it, if I didn't say it, I just didn't think of it, but them is the words he says.

Q. You didn't think of it until I asked you whether he had said anything to him?

A. Mr. Higgins never asked me if Mr. Macgee said anything.

Q. He asked you what transpired. Now Mr. Williams, don't you know that Macgee told your brother once, and probably more than once, that they had come there with a warrant for Sol Dacus and did not want to hurt anybody?

A. I do not.

Q. And told him to put down his gun?

A. He did not.

Q. You say you didn't fire a shot until after everybody else was—after these men were killed?

A. I did not.

Q. And you went out the back window?

A. I went out the one opening into the property on the north.

Q. Into this property back of the boarding house next door?

A. Yes.

Q. And you went into the out building
189 didn't you?

A. I did.

Q. And didn't you take a double barrel shot gun with you?

A. No, sir, I did not.

Q. Did anybody go in there with you?

A. I didn't see anybody in there.

Q. Didn't O'Rourke go in there with you?

A. I didn't see him.

Q. Did you see O'Rourke get out of the window?

A. No, I didn't see him when he got out of the window, I don't know just which window he got out of.

Q. O'Rourke was able to get up and about after the shooting, was he not, I mean he was not killed right there?

A. No, he was wounded.

Q. He was moving about after the thing was through?

A. I guess he was, in fact, I didn't see Mr. O'Rourke after that.

Q. Now, you testified positively that you did not take a double barrel shot gun out of that window with you?

A. I did.

Q. That you did not leave it in the outhouse?

A. No, I left the 22 Winchester in there that I picked up with a bullet in it, and glad I did.

Q. You didn't see O'Rourke get out of that back window?

A. I didn't see which way he went.

Q. You didn't see him throw his gun down near the wood pile?

190 A. (No answer.)

Q. You say you even left your little rifle in the office?

A. I put it down in the office.

Q. How many times did you fire that gun?

A. I can't say exactly, once or twice, maybe more times, I wouldn't say what I fired.

Q. You shot to kill?

A. I aimed to shoot Jules Le Blanc after these men were killed.

Q. And you say the shot you fired that wounded Le Blanc, was fired after these men had been killed?

A. Yes, sir.

Q. Now, was Gaines in the office there with you all the time?

A. He was not in the office building at the time the shooting was going on, no, sir, he was over in the garage.

Q. He wasn't in the office with you people?

A. I don't remember seeing him there.

Q. Did you see him coming out of the garage?

A. I saw him working in there just a few minutes before, I saw him passing back and forth and he had a wrench in his hand as though he was working in the garage.

Q. Just immediately before the shooting, did you see Gaines at the door of the garage?

A. Somewhere, I don't know how far before
191 the shooting?

Q. I mean immediately before the shooting?

A. No, sir, immediately before the shooting I did not see him

Q. You didn't see him come out of the garage with a gun in his hand?

A. No, sir, I did not.

Q. But you could see Wiley Macgee couldn't you?

A. Yes, sir.

Q. And you could see Jules Le Blanc?

A. I did.

Q. And the three, or four, or five with him, you could see all of them?

A. I did.

Q. But you didn't see Gaines come out of the garage with a gun in his hands?

A. I did not.

Q. Did you see Gaines come out of the office toward the garage with a gun in his hands?

A. I don't remember seeing Gaines anytime while the shooting was going on.

Q. Now, this building next door has a window in the side toward your brother's property, on the south side of it?

A. I suppose it has.

Q. And it has a window on the rear, has it not?

A. Yes, sir.

Q. It is a two story building?

A. Yes, sir, naturally it would be.

Q. Well it is in fact, it was a two story building?

A. Yes, sir, it was.

Q. And it was occupied for what use, do you know?

192

A. I think a lady was running a boarding house there.

Q. Do you know what her name was?

A. No, sir, I can't say.

Q. Wasn't it a Mrs. Crane's boarding house?

A. I wouldn't be able to say, Mr. Miller.

Q. Well, it was a boarding house?

A. I understood it was, as far as I know it was used as a boarding house.

At this point a recess was taken until 2 o'clock.

2 P. M. All parties interested being present, the examination was resumed?

Mr. Williams' examination resumed:

By Mr. Miller:

Q. Mr. Williams, I believe you stated on direct examination you were in the barber shop a little while before the shooting occurred and that you went from there to your brother's place, is that right?

A. Yes, sir.

Q. Did you not say that Bouchillon, O'Rourke and Dacus passed the barber shop while you were in there?

A. I did not, no, sir.

Q. Did you not have some conversation with Arthur Bass, the barber, in reference to their passing?

A. I did not.

Q. Did you not tell him to hurry and get
193 through, that you knew there was going to be trouble?

A. Mr. Bass did not shave me. I know Arthur Bass very well, I don't remember the man that did shave me.

Q. Well, did you not say to the man that shaved you in the presence of Arthur Bass to hurry up and get through, you knew there was going to be trouble, and you wanted to get to your brother's place?

A. No, sir, I did not.

Q. You didn't say that?

A. No, sir, I did not.

Cross Examination.

By Mr. Talley:

Q. You spoke about the good character of your brother, Lem Williams, didn't you Jim? Isn't it true that he was a professional wrestler, and did he not give exhibitions for pay in Bogalusa from time to time?

Objection: Mr. Higgins:

If your Honor please, I object to the question. That has nothing to do with a man's good character.

The Court:

Didn't you bring out the question as to the relative weight and strength of the parties, somebody did?

Mr. Higgins:

Yes, I did that.

194 A. Why he did do some wrestling and boxing, Mr. Talley, but I don't think he was a professional.

Q. He charged admission fees for it, didn't he?

A. If they did I don't know it, in fact, I don't believe I attended one of his exhibitions because I was—

Q. You know he did give several of them, don't you?

A. I don't know, I couldn't say he ever did, I know he did some boxing, as far as exhibitions are concerned and charging admission, I can't say I know, I never did attend— at least, I don't think I ever attended any of his exhibitions because I was not interested.

Q. Do you know whether or not he had any trouble with the railroad for whom he worked?

A. He didn't that I know of.

Q. Do you know whether or not he ever had any trouble with the City of Bogalusa for whom he worked at one time?

A. I don't know that he did, not that I know of.

Q. Do you know whether or not there was any difficulty about some gasoline that was being used belonging to the City?

A. No, sir, I do not.

Q. Between him and Mr. Sherman, chief of the Fire Department?

A. I don't know, never heard of it.

Q. Was he not a physically strong man, Mr. Williams?

A. He was not out of the ordinary, I don't
195 suppose more than any other man.

Q. Hadn't you heard him brag he could whip any man in town?

A. No, sir, never did.

Q. Never did?

A. No.

Q. I believe you stated you saw Mr. Bouchillon at this place with a gun?

A. Yes, I did.

Q. Are you positive?

A. I am positive.

Q. Now Mr. Williams, is all of your testimony in this case just as true as that?

A. How is that?

Q. I say is all of your testimony in this case just as true as that statement?

A. Exactly, it is all true, I saw Mr. Bienn there and all those people I have named.

Q. Well, if Mr. Bienn was not there, is your statement still true?

A. He was there?

Q. Alright. Now, I believe you said you saw Mr. Sibley there?

A. He was.

Q. And is all of the balance of your testimony just as true as that wherein you swear Mr. Sibley was there?

A. It is, yes.

Q. I believe you said you saw John Whittington there?

A. I did.

Q. And is all of your testimony just as true as that where you say you saw John Whittington?

A. Yes, sir.

196 Re-direct Examination:

By Mr. Higgins:

A. Will you point out where the window in this is in this double frame dwelling, two story dwelling next door, are they located on the side, do you remember?

A. Why I don't know as I can specially point them out exactly in the location, but it seems to me if I am not mistaken, it is at least a five room house, four rooms upstairs at the least, and as well as I remember, and there is a window in each room.

Q. Now, how high from the ground are those windows?

A. Well, I wouldn't be able just how to tell, I would imagine they would be as high as a man's head from the ground.

Q. It all depends on how high the man is, four, five, six feet from the ground?

A. Must be around five feet from the ground.

Q. Now, how far from the last window in the place is it to the office located on your brother's property?

A. Must be twenty or thirty feet probably, around twenty feet I guess.

Q. Are there any windows in the rear end of the building?

A. Naturally, there must be, it has got a dining room located— when we lived in the house— my mother lived in it, it had one— the dining room was in the rear and the kitchen off to this side, the dining room off on the north side (witness indicating).

197 Q. How many windows were in it?

A. As I remember, there were two windows in each room.

Q. And how high are those windows from the ground?

A. I guess around four or five feet.

Q. At the time of this trouble, or immediately before it, did you see this man Dacus there, a colored man?

A. I did not.

Q. Was Dacus there at any time during which time you were there?

A. He was not.

Q. How many fights around town did your brother have, if he had any that you know of?

A. None that I know of, I can't recall any fights.

Q. Did he ever have any difficulty with anybody with a gun or anything of that sort?

A. Not as I know of, he was arrested in Bogalusa and a charge made against him. He never has been in the Franklinton Court House since he lived in Bogalusa, since 1906, there is no record to show he was arrested for anything.

Q. Do you recall whether or not you saw a man there at the time of the killing by the name of Bob Carson?

A. I did.

Q. Where was he?

A. He was in the crowd with a gun.

Q. Did you see him with a gun too?

198 A. Yes, sir, I did.

Q. Where was he?

A. He was in the crowd with a gun too.

Q. He was in the crowd with a gun too? Did you see him with the gun?

A. Yes, sir, I did.

Q. How far is your brother's place from the property of the Great Southern Lumber Company?

A. The saw mill?

Q. Yes.

A. I guess about a half mile, not quite so far.

Q. Will you state whether or not the property of the Great Southern Lumber Company is fenced in or not?

A. It is.

Q. How long had it been fenced in?

A. Since about three months before this killing.

Q. Did you ever have any occasion prior to the time of the killing to see Macgee on the company's property?

A. I did.

Mr. Dufour:

Now, if your Honor please, if that is not a leading question, I don't know what is. I don't like to worry the Court and Jury, but I think we ought to be protected against leading questions.

By Mr. Higgins:

Q. Do you know that the men that came to your brother's place on the date of the killing were

199 representing—

Mr. Dufour:

I object.

Mr. Higgins:

He can answer if he knows.

Mr. Dufour:

That is a conclusion, asking a conclusion about a representative is conclusion.

Mr. Higgins:

I asked him if he knew who they represented. If he says no, that ends it. If he says he don't know, that is not leading and is a perfectly proper question.

The Court:

Let him answer the question.

By Mr. Higgins:

Q. Do you know who these men were representing?

A. No, sir.

Q. Do you know for what purpose they came there?

A. No, sir, I don't know personally, I know what they did when they got there.

Q. You were present when they arrived, were you not?

A. Yes, sir.

Q. Did your brother invite them to come into his place?

A. No, sir, he did not.

Q. Can you state of your own knowledge who was allowed inside of the fence of the company and who was not allowed?

200 Mr. Dufour:

I submit if your Honor please, that is not revelent [relevant] in any issue in this case. I have the right to let anybody come into my property whom I please. That does not mean if I don't let some one come on my property that I am in a conspiracy to kill any one else.

Mr. Higgins:

Some lattitude ought to be allowed us to probe these witnesses to find out if anybody in the employment of the company was a party in the crowd that participated

in the killing. I think it is relevant to show who was allowed on the company's property on that date and who was not.

The Court:

You can ask him whether there was a rule stating who was permitted to go on the company's property.

Mr. Higgins:

What was the custom as to who was permitted to go inside the company's property, inside the fence, and who was not, if he says he knows about it, who the parties were?

The Court:

Let the witness answer who he knows were allowed and then see what his answer is, and then we will proceed?

201 By Mr. Higgins:

Q. Would you answer that question?

A. Employees only.

Q. Employees of whom?

A. The Great Southern Lumber Co.

Q. Now Mr. Williams, what is the source of your knowledge, how do you know that?

A. Well, I know the date they blew the whistle to arrest those boys on the north side of Bogalusa—I was working in the fire department and when I got to the gate they wouldn't allow anybody in except Mr. Pittman, they wouldn't let me in, I got near the gate and all but got inside but they stopped me, they wouldn't let me in, only employees they said were to go inside and of course I wasn't working for them.

By Mr. Dufour:

Q. When was that?

A. The day they arrested those boys for disturbing the peace, in North Bogalusa at the job, they blew the siren whistle and we thought it was a fire, that was the first time the siren was ever blown except for signaling for fires. We thought it was a fire and we rushed, and not knowing where the fire was, had orders to go down and find out where the fire was, and when we got down there they refused to let me inside the gate, but I did get a few steps before they stopped me and I saw fellows coming out of the mill supply house with guns, coming toward the gate, and the Chief came on back
202 and we got on the truck and went back to the fire station, and I was told they went to the north side and made this arrest.

Mr. Dufour:

We ask that all that be stricken out, that is not relevant to any issue to this case, about seeing some men coming out of the mill with guns.

The Court:

Well, I have permitted him to answer whether or not there was any rule as to who was allowed in the grounds and he was asked how he knew it and he gave this as his reason.

Mr. Dufour:

That part of it is alright. They wouldn't let a fire truck in because they were not employees, but the rest is a purely voluntary, gratitious statement.

The Court:

You mean as regards—

Mr. Dufour:
People coming out with a gun.

The Court:
Yes.

A. (Witness continuing.) I cannot recall the date, it was two weeks before those men were killed when they arrested those fellows for disturbing the peace.

The Court:
I don't see that that is relevant in regard to those men coming out with a gun and I will sustain
203 the objection as to that and order it stricken out, and I ask the Jury to disregard it.

By Mr. Higgins:
Q. Just prior to the date of the killing, just prior to the time of the killing, did you have occasion to go on that property?
A. I did.
Q. When was that?
A. It was about a week before these men were killed.
Q. I will ask you to state what you saw on the company's property?

Mr. Dufour:
If your Honor please, is that the way to prove employment. He says he was not an employee and he was on the company's property.

A. I beg your pardon, I didn't say I went on the company's property, I said I had occasion to go on the company's property and they would not let me in.

Mr. Dufour:
Did you want to go in?
A. I misunderstood the question.

Mr. Higgins:
I asked him if he had occasion to go in.

The Witness:
I did have occasion to go in but I didn't go in.

Mr. Higgins:
Q. Just prior to the date of the killing, will you state whether or not you saw any guns or
204 ammunition on the company's property?
A. I did not.

Mr. Dufour:
That is not relevant to any issue in this case.

The Court:
Well, he said he did not.

By Mr. Higgins:
Q. Do you know the names of any of the watchmen of the Great Southern Lumber Co.?
A. Gatemen?
Q. At the gate?
A. No, sir, I don't think they stayed at the same place altogether, they would shift them around from one place to another, sometimes one man would be at the gate and sometimes another man, and probably the next day wouldn't be at any gate at all. At times they didn't have any regular watchman, as I know of, in fact I can't recall any wan [man] that watched the gate steady, as a regular job.

W. T. RENFROW, witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. W. T. Renfrow.

Q. Where do you live, Mr. Renfrow?

A. I am in Shreveport now.

205 Q. Where were you living on November 22, 1919?

A. Bogalusa.

Q. And what was your occupation then?

A. Blacksmith.

Q. Where were you on the day of November 22, 1919, say between the hours of 1:00 and 1:30?

A. 1:00 and 1:30, well I was—I live right on Columbia Road just about a block of this garage you understand—

Q. Talk louder, we don't hear you?

A. What?

Q. Talk louder I say?

A. I was at dinner at 12 o'clock, I went back to the shop about between 1 and 2.

Q. Where were you at say—did you have occasion to be in the vicinity of Lem Williams place on that day?

A. Yes, sir.

Q. Were you at his office, Lem Williams' office?

A. Yes, sir.

Q. Who was present?

A. Well, Mr. Williams, Lem Williams and Jim Williams, brother, and O'Rourke, Bouchillon and that fellow Gaines and Norman Simmons.

Q. Talk louder please, I can hardly hear you?
A. I say Norman Simmons, he was in there too.
Q. What were you doing there?
A. Well, I will tell you how I came to go there. When the whistle blowed you know—
206 Q. What whistle?
A. The Great Southern whistle, fire whistle—I was eating dinner at the time the whistle blowed and I seen it wasn't a fire call because it wasn't followed by these other whistles, those three long whistles and I went out on the gallery, on my gallery, and I could see right from Columbia Road, it wasn't but a short distance—I seen lots of cars passing with men in them, loaded with men and guns you understand, so Mr. Williams, Lem Williams father was sitting out in front of my house in a truck waiting for another fellow to start it up you know, he had been working on it—I went out there and I asked the old man, I asked him what does all this mean, all these cars passing loaded with gun men.

Mr. Miller:
Never mind what you said.

By Mr. Higgins:
Q. Don't tell us what Mr. Williams said, what did these men do that were in the automobile?
A. What did they do?
Q. Yes.
A. Well, at that time they were passing back and forth up the road, Columbia Road, and down a piece, and I reckon the same ones they would come
207 back up after passing and there was one ran up and stopped right close to the steam laundry and Mr. Levert went and got his gun and came out and got in it.

Q. Who was that?
A. Mr. Levert.
Q. You know him?
A. Yes, sir.
Q. Can you identify him?
A. Yes, I live right near him.
Q. Is he present in the Court room?
A. Yes.
Q. Where is he?
A. (Witness indicating).
Q. Which one is it?
A. The man in the black suit over there.
Q. With the glasses on?
A. Yes.
Q. Alright. Now, what happened after that?
A. Well, Mr. Williams said—went over to the office—he had a little office right next to the garage and we walked over there and his father asked him what the accident was, what was up, why are all those men riding around with guns, so Lem was sitting at the table, there was a big table sitting in the middle of the office and it had a typewriter on it and he was sitting there writing, so Lem just turned around and sad—

Mr. Dufour:
We object, if your Honor please, that conversation between parties is not relevant to any issues and is
208 hearsay evidence.

Mr. Higgins:
I think anything that he said at the time would be relevant.

The Court:
I don't think it would.

By Mr. Higgins:

Q. You saw him sitting at the table?

A. Writing on the typewriter, and the old man asked him—

Q. Don't tell us what the old man said, what was Lem doing?

A. Writing on the typewriter.

Q. How long did you stay there?

A. I stayed in the office I reckon about five minutes, around the office there.

Q. Were you inside of the office?

A. I stepped inside.

Q. Did you see any guns or firearms there?

A. No, sir, there was one gun in there lying up against the desk.

Q. What kind of a gun?

A. An old shot gun, double barrel shot gun.

Q. Were you present when the men came in the automobiles in the yard?

A. No, sir, I was not right there so I couldn't see them, I was up the street a block or so when they all began to stop there.

Q. Do you recall whether or not you saw a man by the name of Gaines there?

209 Mr. Dufour:

Now, if your Honor please, we object.

A. I am a little hard of hearing.

The Court:

Don't ask leading questions. You can ask him who was there.

By Mr. Higgins:

Q. Can you state who was present?

A. Who was present?

Q. At the time of the shooting?

Mr. Dufour:

He says he was not there at the time of the shooting, he only saw who was present when he was there a sufficient time before to let him get a block away.

The Court:

Ask him if he knows of his own personal knowledge.

By Mr. Higgins:

Q. Did you ever come back to the scene of the shooting?

A. Yes, sir.

Q. Alright. Now, who did you see there?

A. Well, I came back from the corner, the laundry, but there was a building between me and this place you understand, an Italian store—

Q. Were you, or were you not able to see anybody there?

A. I couldn't see them any more, I seen them as they came out.

Q. Whom did you see come out?

210 A. Well, I seen Mr. Macgee, Wiley Macgee, Mr. Wilco, Mr. Levert and so on, I am hard at catching names, Paulet McElroy, and there were lots of them, I can't tell all of their names, there were a bunch of them that went in there. Of course, I don't know just how many.

Q. How many men would you estimate was in that crowd?

A. Well, there were so many out there in the road, I couldn't tell just how many came out of the yard, the road was full of them.

Q. Could you state of your own knowledge whether or not J. B. Lindsley, Harold H. Wilcox, David Bienn, Louis Levert and Major Guerre were there?

A. Now, Mr. Lindsley—at that time I didn't know him very well, I haven't seen him but a few times and I can't say for sure—

Q. You have got to talk louder so that everybody can hear.

A. I can't say for certain if all them men came out of there because I was not—I could see them and recognize them. Right at present—

Q. Well, I asked you the question just now if you recognized at that time at that place J. B. Lindsley, H. H. Wilcox, Dave Bienn, Louis Levert and Major Guerre?

211 Mr. Dufour:

I suppose Counsel is cross examining his own witnesses, that's alright.

A. I said I saw Major Guerre there, but I didn't see him come out of the yard.

Q. Did you see any of the others I have named?

A. I saw them come out of the yard.

Q. Were they at the place?

A. Yes, sir, I seen them.

Q. In the yard or in the street?

A. I seen them there, yes, sir.

Q. Did you notice whether they had anything in their hands?

A. Yes, sir.

Q. What did they have?

A. Their guns.

Q. What kind of guns were they?

A. Some were automatic shot guns, some had pump guns, shot guns, the majority of them were shot guns of some description.

Q. What were they doing with the guns?

A. Well, they had them in their hands and I seen them walking around there.

Q. Did you hear any shooting around there?

A. Yes, sir.

Q. Do you know about how many shots were fired?

A. No, sir, I couldn't count them, they sounded to me about 30 or 40 shots, maybe more.

Q. State whether or not you had occasion to go up into the premises after the shooting was over?

A. Yes, sir, I went right after the shooting was over.

Q. What did you find?

212 A. Found some dead men.

Q. Whom did you find there?

A. Lem Williams, O'Rourke—not O'Rourke but Bouchillon, and Tom Gaines.

Q. Now where did you find the body of Gaines?

A. Well, Mr. Williams and Bouchillon were lying in the office dead and Gaines was lying in the garage dead.

Q. I show you on this map where the bodies of these men were found.

A. Let me get my glasses, my eyes are not very good. (Document in question handed to witness and witness examines same). Now this is—this is—that is the garage and this is the office. Here's the door of the office and here's a window here and a window back there. Lem was lying right in this door with his feet about twelve inches from the door and his head back, Bouchillon was lying right back here.

Q. Talk louder, oh, please, talk louder?

A. He was lying at this window between this door and window, I don't remember which way his head was, toward the window or toward the door.

Q. Where was Gaines?

A. Gaines was lying in here. Now, there was a window rigat here in the garage and he was trying
213 to make his escape from through this window, there was a work bench sitting at this window.

By Mr. Dufour:

Q. How do you know he was trying to make his escape, you were a block and a half away?

A. That is what I seen with the shot and blood on him and he was lying about six or eight feet from this window right back here.

By Mr. Higgins:

Q. Where was the blood?

A. On this work bench.

Q. Close to that window?

A. Right on that window, and there were several buckshots.

The Court:

Mr. Renfrow, the Jury are the ones that are trying the case and they want to hear what you are saying, and those gentlemen over there, so you will have to talk louder.

A. Yes, sir, well, Mr. Gaines was also lying about six or eight feet from this window, there was a big car sitting right here in this corner and one of them in this corner, an automobile, and Gaines was—that is he was up there, there was a lot of buck shot right at this window, and the window glass were broken and a lot of shot there. I ran a shop in this place three years afterwards and he was lying with his head toward this
214 door from this window (witness illustrating).

Q. Did you see any guns in the garage?

A. No.

Q. State whether or not you found any guns in the office?

A. When I walked in there, Mr. Williams, I didn't walk up to the door, I didn't stop in the door, the yard was full of men and I looked in there, I didn't see any guns whatever on the floor.

Q. Have you ever had any occasion to examine the side of that building, the residence, the former residence of Lem Williams?

A. Well, I had to, I ran a shop right inside of there 3 years afterwards?

Q. Will you state whether or not the sides of that building has any marks or bullets?

A. I never did see.

A Juror:

I can't hear a thing here.

By Mr. Higgins:

Q. Well, try to talk louder, these men want to hear what you say?

A. I never saw the bullet holes that went into this building, the only shot that I ever seen struck and it struck right around the corner of the house, a glancing shot just struck the corner of the building, the way the grain of the window was, it was coming the other way.

Q. Coming from which way?

215 A. From this direction. (Witness indicating.)

Q. Was it coming from the direction going from the office to the residence, or going from the residence toward the office?

A. Well, several people looked at it and they all claimed it was shot this way. (Witness indicating.)

Q. Don't say what they claimed, tell us what you saw?

A. Well, there's a scar of the wood on the other side next to the office.

Q. Indicating that the bullet was going in what direction?

A. Going toward the office.

Q. Did you have occasion to examine the walls of the office?

A. Yes.

Q. What were the conditions of those walls?

A. Well, the end of the office next to Colorado Road was full of bullet holes.

Q. Do you know what kind of bullet holes they were?

A. Yes, sir, some of them were pistol bullets, some of them shot, buck shot. From the looks of the bullet holes, they looked like one-half rifle shot because it went through five different sections alone.

Q. Did you examine Lem Williams' body?

A. No, sir. I never examined the body. They had dressed him when I got back there that night.

Q. Will you state whether or not you saw
216 any fire arms close to Lem Williams' body at the time you went in there?

A. No, sir, if there was any he must have been lying on them.

Q. How long after the killing did you get back at that place?

A. After the killing, well let's see, I reckon it must have been from the time he was killed until I went in with Mrs. Williams, it must have been about 15 minutes.

Q. Can you state what the general reputation of Lem Williams was with reference to peace and quiet?

A. Well, I never knew of him ever getting into any trouble, I never knew that, the only little trouble I ever

did hear of him getting into, was him and Sherman had a little racket at the fire department at one time.

Q. Him and who?

A. Mr. Sherman the fire chief, that was sometime before this.

Q. Was any gun mixed up in that fight?

A. No, sir, just a fist and skull fight.

Q. Would you state whether or not at the time that you first went to Lem Williams' office a man by the name of Dacus was there?

A. Name of what?

217 Q. Dacus, Sol Dacus?

A. No, sir, he wasn't in there, he wasn't in the office.

Q. Do you know what position Lem Williams held at Bogalusa?

A. When he was killed?

Q. Yes?

A. He was President of the Union.

Q. What other business did he hold?

A. He was in the garage, automobile garage.

Q. Will you state what the condition of his health was?

A. Well, he was in good health I reckon, I never heard of him being sick.

Q. Do you know what his earning capacity was at that time?

A. What is that?

Q. Do you know what his earning capacity was, how much a month he was making?

A. No, sir, I don't know, I heard of course, but I don't know.

Q. Well, don't tell us what you heard, I don't want what anybody told you.

A. Well, I don't know.

Q. How old a man was he?

A. He looked to be about 25 or 28 years old, about that age.

Q. Do you know of your own knowledge whether or not there were any employees of the Great Southern Lumber Co. present at the killing that day?

A. Yes, sir.

Q. Will you state who they were?

A. Well, Major Guerre was one, and there
218 was a man—I know his name if I can recall it now—his name was Hole.

Q. What is that?

A. Hole, he used to be a salesman, lumber salesman, local salesman, I seen him there, he was standing on the running board of the car, the car was full of men, he couldn't get inside so he was standing on the running board of the car, and had a shot gun in his hands.

Q. Who else?

A. Well now, I will tell you. I don't know, there was a bunch of men, I never knew the names of them, I knew the faces when I saw them, but I don't know their names. I used to go to the office and buy lumber for my shop business, I knew their faces but I don't know their names.

Q. Do you know of your own personal knowledge, whether a man by the name of Wiley Macgee was an employee of the company?

A. Whether he was working for the company, well he had been, whether he was right then I can't say, but he had been working for them.

Q. In what capacity was Wiley Macgee working for the company at the time you knew he was working for them?

A. He was foreman, foreman around the mill there, the yard, I seen him there lots of time working
219 a bunch of men around the yard, inside the mill. I never was around the mill very much. I never did work there.

Q. Can you state of your own knowledge, whether or not Megee is in the employ of the company at the present time?

A. No, sir.

Q. You don't know it?

A. No, sir, I don't know whether he was employed by the company at that time or not?

Q. I say at the present time?

A. Now?

Q. Yes.

A. No, sir, I don't know whether he is now or not. I haven't been over there for a year.

Q. Can you state of your own knowledge if the company had a fence around its property?

A. Had a fence?

Q. Had a fence around its property?

A. Yes.

Q. How far from Lem Williams' place was the company's property?

A. Well, the company's property was right on to Columbia Road, that is across the street their land is.

Q. How far was the saw mill, the place where they operated the saw mill?

A. Well, the saw mill—the paper mill was around there and the saw mill I guess—the saw mill must have been near a quarter of a mile from there, where you had to go around it.

Q. Near a quarter of a mile did you say?

220 A. Well, a quarter of a mile is not very far, I expect it was to the main saw mill.

Q. Did I understand you to testify you heard a whistle blown that day?

A. Yes, sir.

Q. And where was that whistle located, if you know?

A. The whistle that blows from the mill, blows for fires and blows six o'clock in the evening.

Q. Who owns that whistle?

A. Well, it is on the Great Southern Lumber Co.'s mill, I guess they owns it.

Cross Examination.

By Mr. Miller:

Q. Mr. Renfrow, who is this man Hole that you speak of?

A. Hole, all I know is he used to be,—I used to buy lumber from him, you know, I went to buy lumber from the company for the shop, and I used to see him over there—in the office—he was a local salesman.

Q. You don't know whether he was working for the company at that time?

A. Well, he stayed in the office, I don't know whether he held that job.

Q. You don't know whether he had it at the time of the shooting?

A. Sir?

Q. At the time of the shooting you don't know whether he was employed at that time by the company
221 or not?

A. He was in the office, I seen him there lots of times, but he was not a salesmen at that time, that is where I got acquainted with the name of Hole.

Q. How long had you seen him before the shooting?

A. Before the shooting?

Q. Yes. The last time you saw him?

A. Well, I guess it must have been when he was standing on the running board of that car.

Q. Well, the last time before that, that is what I am talking about?

A. I can't tell you exactly.

Q. You don't know when you saw him before?

A. No, sir, I can't say.

Q. At the time of the shooting you don't know who he was working for, do you?

A. At the present time I cannot tell you whether he was working for the company or not, any more than the day before, so far as that is concerned.

Q. What kind of a looking man is this fellow Hole?

A. Hole, he was a man, he ain't as heavy as I am, had dark hair.

Q. Young man or old man?

A. He is a man that looked to be about 25 or 30.

Q. Do you know where he lives?

A. No, sir, he lives in Bogalusa somewhere.

Q. The last time you saw him in the com-
222 pany's office was how long before this shooting?

A. Before this shooting, I don't know.

Q. You don't know how long?

A. I got acquainted with the man in the office when I used to buy lumber there.

Q. Well, how long was it before this shooting that you bought lumber from the yard?

A. Saw who?

Q. How long before the date of this shooting was it that you had bought any lumber from the yard?

A. Well, I don't think I bought any lumber from him for some little time, but I seen him around the place, most every day I will go there he will be around the place.

Q. The last time you saw him around the office you say you don't know how long it was before the shooting?

A. No, sir.

Q. How long a time or how short a time?

A. You know I am a little hard of hearing, I just understand a little.

Q. Well, I thought I was speaking fairly loud. How long was it the last time you bought any lumber from him before the shooting?

A. I can't tell you I never kept track of it.

Q. So you don't know whether he was working for the Great Southern Lumber Co. or not on the
223 date of the shooting, do you?

A. Not at a certain time, no, sir, I didn't.

Q. And you don't know how long before that he had ceased to work for the company, if he had ceased?

A. No, sir.

Q. You don't know?

A. No, sir.

Q. You simply know that at the time he had worked for the company, is that correct?

A. I know he was working for the lumber company and I seen him in the office frequently when I was down there and I suppose he was employed there, being there all the time.

Q. You say you saw Major Guerre there?

A. Yes, sir.

Q. You didn't see him coming out of the yard did you?

A. Well, I couldn't say, I just saw him around there, I seen him driving in the car I know, and I seen him in the yard and in front of the building.

Q. Not in the yard you say, but in front of the building?

A. Yes, sir.

Q. Outside in the street?

A. No, the garage sits on the back of a lot like, stood back on the back of the lot.

Q. We have got a picture and we know that. Where did you see him?

A. I seen him out there in front there.

Q. Out where in front, in the yard or in
224 the street?

A. He was all around there.

Q. That was after the shooting was over, wasn't it?

A. Right about the time of the shooting, yes, right after the shooting.

Q. Let me get a little clear, Mr. Renfrow, you were a block away or more at the time of the shooting, and you couldn't see through that big building could you, you couldn't see in the yard at the time the shooting occurred?

A. When the shooting started I was—when the crowd began to stop down there I started back and some more fellows started down there and before we started down there the shooting began.

Q. You didn't see the shooting then, did you?

A. No, I didn't see the shooting.

Q. When did you first see Major Guerre?

A. I seen Major Guerre when he passed going down there with the car and then I saw him standing right in front there.

Q. That was after the shooting wasn't it?

A. Yes, about the time of the shooting.

Q. About the time of the shooting, is that correct? What I am trying to get at is this. You didn't see the shooting and you couldn't see into the yard at the time of the shooting, so you couldn't have seen—
225 wait a minute until I get through—you couldn't see Major Guerre in the yard at the time of the shooting?

A. I could see right down to the edge of the lot, you see, right in front down to the sidewalk.

Q. On the sidewalk, that is right, but you couldn't see through that big hotel and see who was in the yard?

A. (No answer.)

Q. Is that the time you saw Major Guerre?

A. Yes.

Q. That was the first time you saw him?

A. Yes.

Q. Outside of the yard?

A. He was there around the yard, yes.

Q. And that was after the shooting, was it?

A. Right after the shooting.

By Mr. Higgins:

Q. Did I understand you to say you saw Major Guerre driving one of the automobiles there?

A. Yes, sir.

Mr. Talley:

Wait a minute, Mr. Higgins, I want to cross examine him.

Cross Examination.

By Mr. Talley:

Q. Mr. Renfrow, I believe you stated you heard of Lem Williams having a fight with Sherman?

A. Yes, sir.

Q. And he whipped him, didn't he?

A. That is what I heard.

226 Q. Mr. Sherman is a pretty powerful man is he not?

A. Yes, sir.

Objection: Mr. Higgins:

I object, that is an opinion of the witness. Tell us how big he is, how much he weighs, how tall he is.

By Mr. Talley:

Q. Well, I believe you stated Lem was much of a man. Did you ever attend any of his wrestling matches?

A. I went to one.

Q. He was a pretty good wrestler?

A. Pretty good, yes, sir.

Q. Pretty good scrapper too, wasn't he?

A. Well, I never seen him scrap any.

Q. Now, where were you standing when you say you saw Mr. Bienn come out of the yard?

A. Mr. Bienn?

Q. Yes.

A. I don't know as I said I saw Mr. Bienn coming out of the yard.

Q. Didn't you say a while ago that all of these fellows that were read off to you came out of the yard?

A. I said I seen a bunch coming out of the yard.

Q. A bunch coming out of the yard?

A. A bunch of men, yes, sir.

Q. Then those people he read off to you, you won't swear whether they were in the bunch or not, will you?

A. I seen a lot of them coming out of the
227 yard and a lot of them I recognized.

Q. Does that mean you saw all of these gentlemen whose names he read off to you coming out of the yard?

A. Well, I can't say that.

Q. Well, what did you say that a while ago for?

A. I don't know I said that a while ago.

Q. Didn't you say you saw those defendants as he read them off to you, coming out of the yard?

A. I never noticed him.

Q. You didn't notice Mr. Lindsley?

A. Which Mr. Bienn are you talking about?

Q. I am talking about Mr. Dave Bienn, the furniture man?

A. I seen Bienn there, but I didn't notice him coming out of the yard.

Q. Where were you when you saw him?

A. I was standing right in front of the laundry.

Q. Standing in front of the laundry?

A. Yes.

Q. Isn't it true—were you on the sidewalk or the middle of the street?

A. Right in front of the building there.

Q. Were you on the sidewalk or in the middle of the street?

A. I was standing on the sidewalk.

Q. How?

A. I was standing right on the corner of the sidewalk.

Q. Well, is it not true that Columbia Road takes a turn there?

228 A. Makes a little turn.

Q. Makes a little turn and don't you know you couldn't see Lem Williams front gate from the corner of the sidewalk in front of the laundry?

A. I didn't say I seen in the front gate.

Q. You stated you saw him coming out of the yard?

A. Well, he was coming out that way.

Q. How?

A. Coming out that way.

Q. But you don't know whether he was just inside the fence and just walking out on the street or not, do you; you don't swear he came out of the yard?

A. Well, of course, I can't tell how far he came back that way.

Q. You just saw him in front, out on the street in front of Lem Williams' place?

A. Well, just that way, yes.

Q. And isn't that about all you saw of him?

A. (No answer).

Q. I say isn't that all you saw—

A. No, sir, I saw all the men—

Q. You saw all the men and you say you and three and four men—

A. Of course, I am not stating I seen those men in there, because I wasn't so that I could see them.

Q. Didn't you say you saw Major Guerre in
229 there?

A. Major Guerre?

Q. Major Guerre?

A. Not in the yard, no, sir.

Q. Didn't you say you were about a block to a block and a half away?

A. I was up at Greenburg's corner.

Q. As far as Greenburg's corner, and you turned Greenburg's corner and several fellows with you, who were those men?

A. Old man Ellis, not the Chief but old man Ellis, he was with me. Kenny Ellis, you know, he used to be up there, he is dead now.

Q. You say you started back when you heard the shooting?

A. No, I started back before the shooting.

Q. Why did you start back?

A. I seen a bunch of them rushing down and I seen those cars.

Q. Didn't you say a while ago on your direct examination that you heard these whistles and you saw these fellows riding by and you had a conversation with Lem's father about it, and now you say you went on by to

Greenburg's corner a block and a half away and then you started back. Now, which is true?

A. I walked up as far as Greenburg's and the car was passing going down. Major Guerre was driving one, Sherman was driving the other and I disremember who was driving the other, there were three cars.

230 Q. Well, when did the shooting take place?

A. Well, I was starting to tell you, just as soon as these cars passed a big lot of people ran up and looked, and then old man Ellis and myself started down there and when I got down there to Mr. Dreyfous' building, you know the brick building, we heard the shooting start and we ran along and down and on the way we stopped at the laundry until the shooting was over.

Q. You were at Dreyfous' store a full block away until the whole thing was over and you had the laundry to see through and you had several of those stores to see through, you had another store to see through before you could have seen Lem Williams' place, or any part of his place, between you?

A. When I went down to the car?

Q. I mean when the shooting took place?

A. When the shooting started?

Q. You were at Dreyfous' store when the shooting started?

A. Yes.

Q. Well alright. Now you say you saw some of those men drive up before you left when you talked to Lem Williams' father, didn't you, didn't you see some men congregated there?

A. I went in the office before the people came there.

Q. No, no, didn't you know there were a

231 crowd of men coming north and south?

A. In cars?

Q. Yes.

A. Yes, sir.

Q. Well, how could you see if these fellows were there a block and a half away?

A. When I came out of the office these men were passing back and forth.

Q. Let's see if this is not true, Mr. Renfrow, as to your testimony. You can't swear that either one of these defendants were there at the time of the killing, can you?

A. I can swear they were all out there with guns.

Q. Please answer my question, you can't swear that either one of these defendants were there at the time of the killing, can you?

A. No, sir, I can't, I didn't see them shoot, doing the shooting.

Q. You have not answered the question, you can't swear that they were at the killing at the place on Lem Williams' premises?

A. I can swear they were right there in front.

Q. You can swear they were right there in front?

A. Yes.

Q. Did you say there were a lot of people running down the street?

A. Coming down?

Q. Yes.

A. Down where?

Q. Didn't you see a lot of people running down the street?

232 A. Lots of them came down there, yes, sir.

Q. How many?

A. Well, I never counted them.

Q. Was it as many as twenty-five?

A. You mean came to look at the scene?

Q. No, came ahead of you. Were there as many as twenty-five people ahead of you?

A. There was that many or more standing in front of the laundry when I got there.

Q. Alright. Now, how could you see through that bunch of people, around the corner and down to Lem Williams' place? Now, please explain that?

A. I could look over them.

Q. Oh, you could look over them?

A. No trouble at all to look over that bunch of people?

Q. Did you stand up on the folks head?

A. I didn't have to.

Q. Did you look around the corner, did you have a periscope?

A. I didn't have to look around the corner.

Q. Well, how did you see these people?

A. I didn't say I seen these people.

Q. What did you say then?

A. I seen them coming out from the place, from the yard.

Q. You really don't know what took place of your own knowledge?

A. How is that?

Q. You really don't know what took place of your own knowledge?

233 A. I don't know.

Q. You don't know who was there?

A. Yes, I know who was there.

Q. How do you know it?

A. Well, I seen them there.

Q. You saw them there from around the corner, and through people that were crowded in the cars?

A. I didn't say I saw them in there but I saw them when they came out.

Q. How could you see them come out if you couldn't see around the corner?

A. Well, I seen them bring Lem Williams over and I seen them bring O'Rourke out of there.

Re-Direct Examination.

By Mr. Higgins:

Q. Were you in a position that you had to see around a corner to see who was present at Lem Williams' place after the shooting?

A. No, sir.

Q. Where were you standing, or where were you coming, at that time?

A. There was a dago place right between this place, and there was just a little from there, you could stand on the outside of the corner and look right down the street—down the sidewalk.

Q. How many times had you gone in the vicinity of the shooting that day around from say 12 o'clock
234 until the time of the shooting?

A. One time—after the shooting you mean, before or after?

Q. Before?

A. I went once.

Q. You went in the office?

A. I went in the office, yes.

Q. After the shooting you came back there again, is that correct?

A. Yes, sir.

Q. When did you see them men, before you left or when you came back?

A. I seen them after I came back.

Q. Now whom did you see?

A. Who did I see?

Q. Yes.

A. Well, there was a bunch of them. I guess there must have been 75 or more men, may be 100. They were all around the building, a big bunch in front.

Q. Were these men armed?

A. Most of them, they were armed that I seen.

Q. Can you state whether or not of your own knowledge, any of the automobiles—

Mr. Dufour:

We object, I know just what is coming, I suppose he wants to show some of the automobiles were the Company's, and that would be a leading question and an improper question.

235 By Mr. Higgins:

Q. Do you know who owned the automobiles these men came in?

A. No, sir.

Q. You don't know?

A. No, sir.

Q. Did you notice any name on any of them, or anything of that sort?

A. No, sir.

Q. Were there any trucks?

A. Yes, sir, Mr. Levert came back on a truck.

Q. Was there any name on that truck?

A. I never noticed any, no, sir.

Q. Do I understand that you saw Mr. Bienn there?

A. I seen him out there in front, yes.

Q. Can you state if he had anything in his hand?

A. Well, I can't tell you anything for sure. Of course, there were so many that had guns, I can't say, because I might be mistaken, but there were lots of guns there.

A. G. SUMRALL: witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination:

By Mr. Higgins:

Q. What is your name?

A. A. G. Sumrall.

Q. Where do you live Mr. Sumrall?

A. Hattiesburg, Miss.

Q. Where were you living on November 22,
236 1919?

A. Bogalusa, La.

Q. What was your occupation then?

A. Truck driver, Standard Oil Co.

Q. Where were you about 2 o'clock on the date of November 22nd, 1919?

A. I was on the Colorado Road.

Q. Did you have occasion to visit the office of Lem Williams?

A. I did.

Q. What happened while you were there?

A. I went in and collected a little bill from Mr. Williams, a bill for about $6.20, I think it was.

Q. For whom?

A. For the Standard Oil Co.

Q. I want you to talk loud so we can all hear? What happened while you were there?

A. I collected the bill and came out.

Q. What happened then?

A. I drove up the street about a block or a little better and the fire whistles blew and a crowd of men came down with guns in automobiles.

Q. Did you recognize any of the men?

A. Some of them, yes, sir.

Q. Can you name some of them?

A. Well, it is pretty hard for me to name them, I can remember faces, but I can't recall names very well.

Q. Do you see any men in this Court room that were present?

A. Yes, sir.

Q. Name them?

237 A. I seen three or four gentlemen over there that I seen— five— there is two of them I can call the names, or three.

Q. Name them?

A. Mr. LeBlanc, I mean Mr. Guerre, Mr. Bienn, Mr. Lindsley and Mr. Levert.

Q. Did you notice any other ones that were present that you do not know their names?

A. This gentlman over here (witness indicating) I know his face but I don't know his name.

Q. Which one?

A. The one behind Mr. Talley.

Q. The man with the curly hair?

A. This gentleman sitting in front of Mr. Levert. I can't recall his name, I used to know his name but I can not remember it now very well, I know his face.

Q. You are positive he was present?

A. He was with the bunch, he came from up the street.

By Mr. Johnson:

Q. Didn't you see me?

A. No, sir, not you, I didn't notice you, if I saw you there, I didn't notice you.

By Mr. Higgins:

Q. Did you see these men with anything in their hands, any of the ones you named and the ones you pointed out?

A. Mr. Levert, he had a gun and Mr. Guerre
238 had a gun and Mr. Lindsley had a gun, and this fellow had a gun.

Q. The gentleman that you don't know the name of, he had a gun?

A. I didn't notice him with any gun.

Q. What happened while you were there?

[A.] Well, the fire whistle blew and those men began to gather up down there, I stopped my truck and went back down there and I met Mr. Lem's brother right at the corner of the laundry, he was standing right in front of the laundry, and I says to him, I says, "Hello, what's the trouble——

Q. Never mind that, what did you see?

A. I went on down to the gate and I was stopped there.

Q. Who stopped you?

A. Mr. Cowgill.

Q. Mister who?

A. Mr. Cowgill.

Q. What happened then, what did you see?

A. I saw Mr. MacGee and Mr. Lindsley in front of the rest of them, and Mr. Macgee had his gun in his hand in this shape (witness indicating) and Mr. Williams came to the door and threw his hands up on the door casing and the shooting took place. It all happened like that. (Witness snaps fingers.)

Q. Were you able to see Mr. Williams at the time he came to the door?

239 A. I was.

Q. Will you state whether or not he had anything in his hands?

A. He did not.

Q. Do you know who fired the first shot?

A. Mr. Macgee fired the first shot.

Q. In which direction did he fire that shot?

A. Right in the door of the office.

Q. Can you state whether or not that is the shot that struck Williams?

A. Well, I can't say that, but he fell back like that. (Witness illustrating.)

Q. When the shot was fired he fell back in the door?

A. He fell back in the door.

Q. Do you know that man?

A. Who?

Q. Macgee?

A. Mr. Wiley Macgee?

Q. Yes?

A. I did when I seen him.

Q. Do you know what his occupation was the day of the killing?

A. Well, I can't say what his occupation was at that time.

Q. Do you know of your own knowledge whom he was representing, or why he came there?

Mr. Dufour:

Now if your Honor please, we object. That is a question calling for opinion.

240 By Mr. Higgins:

Q. Do you know why he came there?

A. No, I do not.

Q. How long had you known Williams?

A. I had been knowing him for about three years.

Q. What was his general reputation about his peace and quiet?

A. I never did know anything against him.

Q. How tall a man was he?

A. About as tall as the gentleman sitting here, Mr. Talley, a heavy stout fellow.

Q. Well how tall is he?

A. I would judge he is about six feet six inches.

Q. Six feet six inches?

A. Something like that. I mean five feet six inches, something like that.

Q. Now, which was it, five feet six inches or six feet six inches. There is a lot of difference there?

A. Well he was about five feet six inches, may be eight inches.

Q. How much did he weigh?

A. He weighed about 180 to 200 pounds.

Q. What else did you see while you were there?

A. Well, I tried to go inside and they wouldn't let me go in.

Q. Do you know whether the man who stopped you was a police officer?

A. No, sir, I do not, I know he had never been on the police force.

241 Q. What was his name?

A. Cowgill.

Q. Do you know what Cowgill's employment was?

A. I think he was a contractor or had been a contractor.

Mr. Miller:

I wish the witness would take his hand down from his mouth, we cannot hear over here.

By Mr. Higgins:

Q. Can you name any other parties that were present that day?

A. Well, I can't remember names very well.

Q. See if you can recall some of them?

A. It was pretty exciting times there and I can't remember names.

Q. Did you ever have any occasion to get in the place that day?

A. Well, that evening I did go back.

Q. Did you examine the side of the wall at Williams' home near the office?

A. I did.

Q. What was the condition of that wall?

A. There were shot holes all in it and bullet holes all in it.

Q. Here is a drawing that represents Columbia Road. That is supposed to be the gate leading to Williams' yard. This is the office, that is his garage, that is his home and that is his residence (Counsel exhibits plan to witness) Now I ask you the question if you ex-

242 amined the side of the wall of the residence near the office?

A. No, sir, I did not.

Q. What did you examine?

A. I examined the wall, I went in the office and examined the wall in there.

Q. And what did you find?

A. I found shot holes and bullet holes through the walls of the office.

Q. You stated a moment ago you examined this wall, is that correct?

A. No, not the wall of his residence, no, sir, I didn't examine that.

Q. You saw a number of shot holes through this wall?

A. Yes.

Q. In the office?

A. Yes, in the office.

Q. Did you see the bodies of O'Rourke or Bouchillon?

A. I did.

Q. Where were they at the time you saw them?

A. Lying in the office.

Q. Did you see any guns in there?

A. No, sir, I did not.

Q. Did you see any ammunition in there?

A. No, sir.

Q. Did you go inside the office when you went there the first time to collect the bill?

A. I did.

Q. Did you see any guns at that time?

A. I did not.

Q. What was Mr. Lem Williams doing at
243 that time?

A. He was sitting at a typewriter desk facing sort of toward the door that way (witness indicating) with his legs crossed talking to two or three other gentlemen.

Q. Do you know who owned that siren whistle that was blown that day?

A. No, sir, I do not.

Q. Where was it located?

A. It was located at the mill.

Q. What mill?

A. The Great Southern Lumber Co's. mill.

Q. When was it customary over there to blow that whistle?

A. When they blew the siren it was the custom to go the a fire.

Q. What other signal?

A. I never did hear the siren whistle blow only for a fire.

Cross Examination:

By Mr. Miller:

Q. When you first went to Mr. Williams' office to collect that bill who were there?

A. Mr. Williams and two or three or four other fellows.

Q. Did you know them?

A. I don't know all those fellows.

Q. Did you know Tom Gaines?

A. No, sir, I don't know him.

Q. Did you know Norman Simmons?

A. No, sir, I don't know him, well I have
244 seen Mr. Simmons but I don't know if I seen him down there.

Q. You don't know whether it was Mr. Gaines or somebody else?

A. No, sir, I don't.

Q. Was Dacus there, Sol Dacus?

A. I don't know that gentleman.

Q. Did you see a negro in there at all?

A. No, sir.

Q. Well now, you went out of there and drove down the street about a block?

A. Block and a half. I drove as far as Mr. Greenburg's store.

Q. And then you heard the whistle blow?

A. I heard the whistle blow.

Q. And then how long was it before these men came up in the automobile?

A. Only a matter of a few minutes.

Q. Don't you know that those men in the automobiles didn't get there until forty minutes or more after that whistle blew?

A. It was not that long.

Q. Just a few minutes was it?

A. It was not quite forty minutes, no.

Q. What did you stop there at the corner for, you thought there was a fire didn't you?

A. I did.

Q. Did you ask anybody where the fire was?

A. I looked for the fire.

Q. What made you stop there?

A. Well, we have got orders from the Stan-
245 dard Oil Company if we are on the streets and a fire whistle blows, where there is a fire truck coming, to stop.

Q. And when you found it was not a fire, why didn't you go?

A. I turned back when those people passed with their guns.

Q. How long after you stopped was it before they went by?

A. Why a very short time.

Q. That is nothing, a very short time, how long was it?

A. I didn't have any watch to look at.

Q. How long would you estimate it was?

A. Well, I would say 25 minutes, possibly 20 or 25 minutes.

Q. You stayed there in your wagon 20 or 25 minutes?

A. I got off the truck.

Q. What were you doing?

A. I was standing on the corner.

Q. Where?

A. Oh, watching for the fire truck.

Q. 20 or 25 minutes watching for a fire truck?

A. Yes.

Q. Don't you know that when the fire whistle blew there was also some short blasts after that to indicate where the fire was?

A. I did.

Q. You didn't hear that?

A. I did not.

Q. You didn't ask anybody where the fire was?

A. No, sir, I did not.

Q. You just stayed there watching, making up your mind whether it was a fire or not?

A. I did.

Q. For 20 or 25 minutes?

246 A. (No answer.)

Q. When you went back in that office again you say it was late in the evening?

A. Well, it was sometime between— well, I would say about 3:00 or 3:30.

Q. You don't call that late in the evening?

A. I call it beginning to get late.

Q. 3:00 o'clock or half past three, that is a question of opinion whether it was early or late in the evening. Who went in there with you?

A. Well, there was a fireman on the Great Southern road.

Q. What was his name?

A. I can't recollect his name.

Q. You have not been able to call the names of anybody except these five defendants in this case so far?

A. Well, there was Mr. Flournoy there and another man was there, I can't just recall his name, this man.

Q. But you recall these gentlemen'd [gentlemen's] names back here, all but one of them?

A. Yes, sir.

Q. Now you say you saw the bodies of Bouchillon and O'Rourke when you went in there?

A. I did.

Q. How was O'Rourke's body lying?

A. O'Rourke's body was lying on the floor.

Q. On his back, on his side, or how?

A. Well the Coroner had been there and examined him and he was lying on his back.

Q. Was he one of the men that you saw there that morning when you collected the bill?

247 A. No, sir, Mr. O'Rourke was not in there that morning when I went in there to collect the bill.

Q. You know Mr. O'Rourke very well?

A. Yes, sir, I do, very well.

Q. Do you know then at the time you went in there at half past three o'clock that Mr. O'Rourke was lying wounded over in the hospital and was not there at all?

A. No, sir, I didn't know that.

Q. You saw him lying there on the floor on his face?

A. I saw the man I took to be Mr. O'Rourke.

Q. You say you saw Mr. Bouchillon's body too?

A. Yes.

Q. Where was Lem Williams' body?

A. Lem Williams' had been moved from the house.

Q. O'Rourke's body was there dead and you knew him?

A. I knew Mr. O'Rourke just visibly.

Q. You looked at him and you saw his body lying there and you were satisfied he was there, weren't you?

A. (No answer.)

Q. You are sure that was O'Rourke's body?

A. I would say it was.

Q. Now, what did these men that came up in the automobile, what did they do?

A. I didn't get your question.

Q. You say you saw a lot of men drive up in automobiles, and I ask you what they did?

248 A. They got out and went in the yard, part of them. They were all over the streets. There was an army of them you might say.

Q. About how many?

A. I would say about 75 or a 100.

Q. Every one of them have a gun?
A. No, sir, not all of them.
Q. How many of them had guns?
A. I couldn't tell you that.
Q. A good many of them?
A. A good many of them, yes.
Q. Now, what did you do?
A. Why Mr. Cowgill stopped me at the gate.
Q. You walked on up there from the corner?
A. No, sir, I was just going down to the gate and Mr. Cowgill stopped me there.
Q. Now wasn't that the time you got to the gate and Cowgill stopped you, wasn't that after the shooting was all over?
A. No, sir.
Q. Do you know that?
A. No, sir, it was not.
Q. You stayed there and watched what was going on, did you?
A. It all happened like that. (Witness snaps fingers.)
Q. Wasn't the yard full of people?
A. Yes.
Q. And you were at the gate and they wouldn't let you in?
A. Yes, sir.

Q. There was a big crowd between you and
249 what was going on?
A. There was a pretty good crowd inside, yes.

Q. What?
A. There was a very good crowd inside.
Q. On which side of the gate were you?
A. I was, I reckon, what you call the west side of the gate.

Q. What direction is that, down toward Greenburg's store?

A. Down toward Greensburg's store, yes.

Q. That was down on the way you go to the mill?

A. Yes, sir, on the way you go down Colorado Road.

Q. Well, that is about south is it not, the south side of the gate?

A. I don't know what direction you would call it, it is back this way (witness indicating)

Q. How long had you lived in Bogalusa at that time?

A. I had lived there about four years.

Q. You drove a truck all around the streets?

A. I did.

Q. You don't know north and south and east and west?

A. Those streets don't run parallel south and they don't run parallel north.

Q. They run almost directly north and south and east and west, don't they?

A. Not almost directly, no sir.

Q. Do you belong to any Union?

A. I do.

Q. Which one?

A. I belong to the Truckers Union.

250 Q. Is that the Union that Williams was President of?

A. There was not any truckers Union organized out there.

Q. You were affiliated with their Union, were you?

A. Yes.

Q. You attended their meetings?

A. I did.

Q. Still a member?

A. No, sir, I belong to a Union now, but I am not a member of that Union.

Q. You say when you got to the place the yard was full of people and everything open just like that? (Counsel indicating.)

A. Yes, sir.

Q. Did you hear anybody say anything to anybody else?

A. I did.

Q. I mean these parties engaged in the shooting? Did you hear them say anything to anybody else?

A. There were not any words spoken by any of them that I could hear, no.

Q. You didn't hear them say a word?

A. Not a word.

Q. Didn't hear Lem Williams say anything?

A. I did.

Q. What did he say?

A. When Mr. Macgee and Mr. Lindsley passed by his door (Witness indicating) like they were looking in the back garage, Mr. Williams threw his hands up on the door casing, and he says, "What do you want, here I am."

Q. Go ahead. Where was Mr. Macgee and
251 Mr. Lindsley at that time?

A. (Witness refers to plan) Mr. Macgee and Mr. Lindsley had walked by— this I reckon represents the door of his office here— Mr. Macgee and Mr. Lindsley was walking up here just a few steps and Mr. Macgee would be about here and Mr. Lindsley here.

Q. Close to the garage?

A. Close to the garage, yes.

Q. Now, who were with Mr. Macgee and Mr. Lindsley?

A. Those two were in front. There were possibly 75 or a 100—

Q. Was it as far from her as the other end of this court room?

A. You mean—

Q. From where you were o about where they were?

A. Yes, sir.

Q. Did you see Mr. Jules LeBlanc?

A. I did, yes, sir, I saw him.

Q. Where was he?

A. Mr. Jules LeBlanc was a little bit further behind.

Q. A little bit further behind. Where was Paul LeBlanc?

A. I didn't notice Paul LeBlanc until he came outside, that's where I noticed him. I don't know whether he was over in there or not, but I noticed him outside.

Q. There was a boat in that yard wasn't there?

252

A. A boat sitting right here. (Witness referring to plan.)

Q. Where was the boat

A. The boat was sitting right here, a gasoline launch. (Witness referring to plan)

Q. Mark it boat? It was a pretty good size boat?

A. I say that boat was about 18 feet long, may be 20.

Q. Where were you standing?

A. I got over to the corner right here, this is a gate here.

Q. You were standing about here?

A. I had to run up here and the shooting took place when I ran up here and I stopped, Mr. Cowgill stopped me.

Q. So the shooting took place while you were running?

A. While I was running, Mr. Cowgill stopped me.

Q. Then you didn't see Mr. Macgee shoot Mr. Williams?

A. I did.

Q. Then the shooting hadn't taken place when you ran up?

A. I ran up and he threw his gun in shooting position and he said, "Stop, you son of a bitch," that is the words he spoke.

Q. Who was that?

A. Mr. Cowgill.

Q. And the shooting had taken place?

A. No, sir. I stopped and looked in.

Q. Then you are mistaken when you say that the shooting took place just as you were coming up?

A. Well, it all happened as I came up there
253 and stopped.

Q. Mr. Cowgill stopped you threatening you with a gun— all at the same time—

A. He just threw his gun in my side.

Q. It was all at the same time?

A. As I stopped the shooting had taken place.

Q. After you stopped?

A. Well now that is a pretty hard question to answer as to whether it was after I stopped or whether it was when I ran up there, because it all happened right there when I ran up.

Q. How did you come to be running up?

A. I came to see what was taking place.

Q. Were you running or walking?

A. I ran up there.

Q. You stood 25 minutes on the corner, what started you to running?

A. I saw those fellows coming down there and I wanted to see what was going to take place.

Q. You didn't go down until you saw 25 men on the corner?

A. Well, the whistle blew and as quick as they could go down there they went down there.

By Mr. Dufour:

Q. How do you know?

A. It is just like a fire truck running to a fire, only it was not quite a [as] quick.

Mr. Dufour:

I want to see if I have these locations cor-
254 rect.

By Mr. Dufour:

Q. You were here, near the word "Columbia" on the sidewalk?

A. I had run up right here (witness indicating).

Q. Run up right here?

A. Yes, sir.

Q. This office is about 75 to 100 feet back from the side walk, isn't it?

A. About 75 or something like that.

Q. These men whom you referred to and called by name were opposite this door?

A. There was a part of them, part of them yes.

Q. So they were 75 feet or more from you?

A. They were.

Q. This place in here was swarming with men to use your own expression?

A. There was a pretty good crowd of men.

Q. Swarming you said?

A. Well no, I didn't say they were swarming.

Q. I thought I heard that word. If the stenographer will go back I am sure he will find you said swarming?

A. I didn't say it.

Q. Even if you didn't say swarming, you stated there was a big crowd of men?

A. Yes, I said that.

Q. As many as 75?
A. 75 or a 100.
Q. And you ran up?
A. I did.
Q. And you were challenged by a man with a gun who halted you?
A. I was.

Q. And during all of that performance, with
255 this crowd in here, you heard Mr. Williams say, "Well here I am"?
A. Yes, sir, I did.
Q. And you want the Jury to believe that as true?

Objection: Mr. Higgins:
I object to that.

By Mr. Dufour:
Q. You tell that as the truth?
A. I certainly do.

By Mr. Higgins:
Q. Did a fire truck ever arrive around there that day?
A. No, sir.
Q. Are you positive about that?
A. The fire truck never did arrive, that I saw.
Q. And that was the fire signal that you heard, that this whistle blew?
A. It was.
Q. Was the gate— I understood that you were halted at the gate?
A. I was.
Q. From the gate you could see Mr. Williams in his office door, is that correct?
A. Yes, sir, that is correct.

Q. What was Mr. Williams doing at the time when you saw him?

A. Doing nothing.

Q. How was he standing?

A. Standing in the door with his hands against the casing. I could see one hand distinctly, I couldn't see one hand but he had the other hand against the door like that, leaning up like that. (Witness indicating.)

Q. He was right in the door?

256 A. He was.

Q. There was nothing to prevent anybody from striking him or shooting him?

A. Not a thing.

Q. Did you see a colored man named Dacus that day?

A. I did not.

Q. Do you know a man named Tom Gaines?

A. I never knew Mr. Gaines.

Q. Were you intimately acquainted with a man named O'Rourke?

A. No, sir.

Q. How long did you remain in the place when you went in there after the killing was over and you were permitted to go in?

A. Only a few minutes.

SAM FELTS: witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination:

By Mr. Higgins:

Q. What is your name?

A. Sam Felts.

Q. Where do you live?

A. Gloster.

Q. Where were you living on November 22, 1919?
A. Bogalusa.
Q. What was your occupation then?
A. Log pond.
Q. What?
A. Log pond, working in the log pond.
Q. Who were you working for?
A. Mr. John Hammond.

Q. In what company's employment?
257 A. The Great Southern.

Q. Did you know a man by the name of Lem Williams?
A. Yes, sir.
Q. Did you ever have any occasion to be at his place of business or garage that day?
A. Yes, sir.
Q. What time were you there?
A. Between 12 and 1 o'clock.
Q. Who did you see while you were there?
A. Well, I saw nobody but just him and Mr. Bouchillon and several more fellows coming in, but I didn't pay any attention to them, who they were.
Q. Can you name any of those other men?
A. A few of them.
Q. Well, name them.
A. You mean those that came inside?
Q. No, the men who were in there when you were there?
A. No, sir, I can't name none of them, but just Mr. Williams and Mr. Bouchillon, that is all I noticed when I was in there.
Q. What happened while you were there?
A. All I know what happened while I was there, this bunch came in while I was there, and I was working,

and I went in there to get Mr. Williams' basket out of his office and empty it in the truck, I was working for the city.

Q. What were you doing?

A. I was running the trash truck.

Q. The truck?

258 A. The clean up truck they call it.

Q. What happened while you were there?

A. Well just about the time I started to get the basket, the people commenced crowding in, and by the time I got out and emptied the basket into the truck and started to put the basket into his office, I hadn't got quite back there—

Q. Did you see Williams when he came to the door of his office?

A. No, sir, I didn't exactly see him.

Q. Where were you at the time the men came in?

A. I was inside of here (Witness indicating) going back, going right here with the basket, coming back with it before they all got in, but I didn't quite get back to the office and stopped at the door.

Q. What did you see?

A. Well, I seen just a bunch of men that was coming in.

Q. Can you name any of these in the crowd?

A. Well, yes, I can name a few of them.

Q. Well, name them?

A. Well, Mr. Levert, I don't know his given name, Mr. Wiley Macgee, and a fellow by the name of Cowgill, and the two LeBlanc boys, I don't know their surnames.

Q. Will you look around the court room and see if you see any parties that were present there that day, and if so, point them out?

259 A. Well, this man Levert, he was one, (Witness indicating.)

Q. Well, who else, if you see anybody else?

A. Well, I don't believe there was anybody else present that I could say I could remember.

Q. How many men would you estimate in the crowd?

A. Around fifty or sixty.

Q. How many were armed?

A. Well, all I seen were armed.

Q. Did you see any shooting?

A. Yes, sir, I seen practically all of the shooting.

Q. Who fired the first shot?

A. Mr. Williams— Mr.— Mr— Wiley Macgee.

Q. Where was he standing when he fired the shot?

A. Right in front of the door.

Q. In front of what door?

A. Mr. Lem Williams' office door.

Q. At the time the shot was fired, did you see Mr. Williams?

A. No, sir I didn't see him, I was going back with the basket, I guess I was about fifteen feet from his door. The door ran this way and I was going this way (witness indicating) and the door cut me off, I couldn't see him. Whenever he got up—

Q. In which direction was Wiley Macgee pointing his gun at the time he fired the frst shot?

A. Right into the office door.

Q. How long had you known Lem Wil-
260 liams?

A. Oh, I had known him practically all my life, ever since I had been a kid.

Q. What was his general reputation for peace and quiet?

A. Mighty good as far as I know.

Q. Do you know what the occupation of Wiley Macgee was at that time?

A. No, sir, I really don't.

Q. Did you go back to the scene of the shooting after it was all over?

A. No, sir, I did not.

Q. What did you do when the shooting stopped?

A. I went home just as soon as I could get there. Before I could get there I went through the ladies yard and jumped over the fence and started down back there through the back alley and they stopped me.

Q. Who stopped you?

A. I can't call his name right now.

Mr. Dufour:

Speak a little louder, please.

By Mr. Higgins:

Q. Where was that, was that anywhere on that map where you were stopped?

A. It was right back of Mr. Williams' garage.

Q. Right back of Williams' garage?

A. Yes.

Q. Well, the party you talked to, did he have anything in his hands?

A. He had an automatic shot gun.

261 Q. What did he say to you?

A. I was running to go over to my wife because I live right there.

Q. What did he say?

A. He just threw the gun at me and told me to stop and I stopped, and a man by the name of Morgan Baxter told him I was alright and to let me pass.

Q. And you went on about your business?

A. Yes, sir.

Q. At the time you were present, did you notice if any shots were fired in the direction of the office?

A. Well, no, sir.

Q. Have you ever been back to the scene of this killing since the time it happened?

A. Several times.

Q. When was the first time that you went back there after the shooting?

A. The next morning.

Q. Did you examine the side of Lem Williams' residence, which is close to his office?

A. Yes, sir.

Q. What was the condition of that wall?

A. Well, there were several shots in it and one bullet went through his gallery post.

Q. I am asking you—

Mr. Dufour:

I object if your Honor please, if the gentleman is going to cross examine his own witness I object. He asked a deliberate question and he got a deliber-
262 ate answer and I don't think he has a right to cross examine his witnesses.

Mr. Higgins:

I think that is taking snap judgment on me. I want to ask the witness a question and before I put my question I am interrupted.

The Court:

Counsel has the right to ask the witness his question.

Mr. Higgins:

I can ask him the same question three or four times over if necessary.

The Court:

You can ask him the question, but be careful not to lead.

By Mr. Higgins:

Q. I show you a map. This building represents the residence of Lem Williams?

(Counsel hands witness map and witness examines same.)

A. Yes, sir.

Q. Here are the gates leading into his yard?

A. Yes, sir.

Q. And this is the yard?

A. Yes, sir.

Q. And this is the office?

A. Yes, sir.

Q. Now, I ask you the question, did you examine the walls of any of these buildings?

A. Yes, sir.

Q. Which building did you examine the wall of?

A. Both.

263 Q. Alright. Now state the condition of the wall of this building, or the residence of Williams?

A. Well, this here building was shot, his office, all around from the beginning of the south side, the best I can remember from the pickets and all, and several over the door casing, his office door casing.

Q. Well, alright, I am asking you a question about this wall, the residence wall. Now, don't say anything about the garage or office. Tell me what was the condition of this wall of the residence?

A. Well, I don't know about the wall—the corner and his post—on the front porch—the post on his gallery.

Q. What was the condition of it?

A. Well, there was a bullet hole through one of the post, that was all that I could see.

Q. Was there anything to indicate from the bullet in the post, from what direction it had been fired.

A. From the outside.

Q. The outside, from where?

A. Toward—not toward the street, the side it runs on.

Q. Here is the map. Point it out?

(Counsel hands witness map.)

A. There is an alley—

Q. Here is the alley, here is the hotel, here is the office and there is the residence?

264 A. There was an alley running—well, not exactly an alley, but an open space—and there was a dago stand over here (witness indicating) and there was kind of an alley and the shot seem to come from this way (witness indicating) from that way and it went into the post.

Q. Alright. Now what was the condition of the wall of this office?

A. Well, it was pretty bad. There were several bullet holes in his office.

At this point Court adjourned until 11 A. M. Tomorrow, Wednesday, April 22, 1925.

Wednesday Morning, April 22, 1925.

Sam Felts, examination resumed.

By Mr. Higgins:

Q. Mr. Felts, how long are you a resident of Bogalusa?

A. Thirteen years.

Q. Who was the Mayor of Bogalusa during 1919?

A. Mr. Sullivan, the best I can remember.

Q. Speak louder please, we don't hear you?

A. Mr. Sullivan is the best I can remember.

Q. What Sullivan is that?

A. He is the head man of the Great Southern Lumber Company.

Q. What is the name of that, Great Southern what?

A. Great Southern Lumber Company.

265 Q. Can you state of your own knowledge what was the relation at the time of the killing and prior thereto between the employees of the Great Southern Lumber Company and the Great Southern Lumber Company?

A. I don't believe I can.

Q. What was the condition of affairs between the company and its employees at the time of the killing?

A. Well not so bad as it was, only they would not work a man if he belonged to the Union.

Q. Who wouldn't work?

A. The Great Southern.

Q. Do you know whether or not of your own personal knowledge the Great Southern Lumber Company had a fence built around its property?

A. Yes, sir.

Q. Kindly state for what purpose the fence was built, if you know of your own knowledge?

A. No, I don't know, I can't say.

Cross Examination.

By Mr. Miller:

Q. Mr. Felts, do you belong to any Union, or did you belong to any Union at the time you are testifying to?

A. Yes, sir.

Q. What union?
A. I belong to the one—now, do you mean?
Q. No, did you then, I asked?
A. Yes.
Q. Which was it?
A. It is the Federation of Labor.
266 Q. Of what?
A. The Federation of Labor.
Q. Well, did you apply to the Great Southern Lumber Co. for a job?
A. I did.
Q. When?
A. Well, right after the mill was repaired and started back up.
Q. That was after this occurrence, wasn't it?
A. Yes, sir.
Q. Sometime after, was it not?
A. A good bit.
Q. You don't know anything about the refusal to employ Union labor except what you were told do you?
A. They refused me.
Q. That was sometime after, a good bit after this occurrence?
A. Yes.
Q. And that is all you know about it?
A. That is all I know about that one thing.
Q. All you know then about their refusing to employ people who were Union labor men, is what you heard, isn't it?
A. That is all.
Q. Now, you say at the time of this shooting you were running the clean up truck of the city?
A. Yes, sir.
Q. Were you driving it that day?
A. I was.

Q. What did you go into Lem Williams' office for?
A. To get—to clean up his place.
Q. Did you bring the stuff out?
A. I did.
Q. Where was that truck?
267 A. Sitting right at the gate.
Q. Was it part of your duty as an employee of the city to go into people's offices and bring stuff out?
A. Yes, sir.
Q. Weren't they required to put their stuff out on the sidewalk where you got it?
A. It was there where you got it, from the alley.
Q. You had to go into the houses and get it?
A. Yes.
Q. And you say you were coming out with this stuff when you met these men coming in?
A. Yes, I was at the truck and I emptied it out and started back with this little basket he had sitting in his office.
Q. How far in the alley did you get before anybody else came in?
A. How far in the alley had I got?
Q. Yes.
A. I was in the alley during all the time.
Q. You truck was outside?
A. Yes.
Q. You had emptied your basket into the truck?
A. Yes, sir; I had emptied it and was going back into the office and a big portion was already there.
Q. When you started back?
A. Yes.
Q. Well, when you went out, which way did you go?
A. I went out of the gate, the same way I come in.

Q. The front gate?

268 A. Yes, sir.

Q. And then what did you do?

A. Then I went up the street a little bit and went through the ladies alley and jumped over the fence and went back down through the alley where I left the truck.

Q. Why didn't you get in your truck and drive off?

A. When I got out as soon as I had run through the place that time the shooting was over so I went off.

Q. Why didn't you stay by your truck?

A. I didn't want to stay by it, I was scared to stay by it.

Q. What scared you?

A. Well, there was so much shooting and everything going on it got me frightened just like it would anybody else.

Q. Where were you standing when this shooting took place?

A. Well, I was not standing, I was going all the time. I set that basket down, before I got back to his office that time.

Q. You started before the shooting began?

A. No, it was going on during the time I set the basket down and started back, that is the reason I didn't sit the basket in the office.

Q. You got out of the front, the same way you came in?

A. I did.

Q. You went down the street a little bit and went to the alley, is that the way you went in?

269 A. No, sir.

Q. Why didn't you go to the garage and go through?

A. Because I couldn't get out that way.

Q. There were a great many people there?

A. Yes, sir.

Q. A good many spectators there, is that right?

A. I can't say that.

Q. You don't know whether they were members of the force, or spectators?

A. No, sir, I can't say.

Q. Now what place in the alley were you when this shooting started?

A. I was about ten feet from the corner of his office.

Q. Were there many people ahead of you?

A. There certainly was.

Q. A good many of them were in ahead of you?

A. Yes, sir.

Q. As you went in?

A. Yes, sir.

Q. Why didn't you stop then?

A. Then, I was trying to carry out my duty, trying to hold my job.

Q. Carry back this basket?

A. Yes, sir.

Q. And you thought you would lose your job if you did not carry the basket back under those conditions?

A. No, I didn't have any idea I would, but I generally like to replace things as I find them. I always do that when I am working on a job for a woman.

Q. And you could have stood outside among those people after you got down to the street instead of coming through this alley, couldn't you?

270 A. I could have if I had a nerve to.

Q. Just simply scared, isn't that it?

A. I didn't have the nerve, my feet wouldn't carry me, I was scared.

Q. When did you first get scared?

A. Well, whenever the shooting set in, that is what frightened me.

Q. Before that you were not scared of the crowd being in there ahead of you, with all those guns and everything you talk about?

A. Certainly, I was not.

Q. And you say they all had guns, and yet you didn't anticipate there was going to be any trouble?

A. Well, I can't say, I didn't know it at that time.

Q. When you got scared of the shooting, you got scared all at once and you stayed scared?

A. I did.

Q. Was there anything in the basket when you were bringing it in?

A. No, there wasn't.

Q. When you took it out, did you see what was in it?

A. Well, I couldn't exactly tell what was in it, papers and everything loose in it.

Q. Was it part of your duty to go into peoples homes and offices and bring stuff out to the truck?

A. It was asked of me to do it.

Q. Who asked you to do it?

A. The city I was working for.

271 Q. To go into peoples houses and gather up their trash and bring it out, is that what they told you?

A. They told me if it was not in the back alley where I could get it to always go in for it.

Q. Where was it you got the trash, was it in the basket, or did you gather it up?

A. It was in the basket sitting right at his door, well inside of the door.

Q. Did you belong to the Lodge Mr. Williams was President of?

A. Yes, sir.

Q. Did you attend the meetings frequently?

A. Yes.

Q. Were you at Lem Williams' place frequently?
A. Sir?
Q. Were you at his house or office frequently? Did you go to his office or his house frequently?
A. Yes, I did.
Q. You say you lived in Bogalusa for thirteen years?
A. Sure have.
Q. You were born and raised in Washington Parish, were you not?
A. Yes.
Q. Do you know a man named Tom Gaines?
A. Yes, sir.
Q. Was he in there when you went into the office?
A. I didn't see him when I went in the office.
Q. You went right in?
A. Yes, sir.
Q. Do you know O'Rourke?
A. I know him when I see him.
Q. Was he in there?
272 A. I didn't notice him in there.
Q. Do you know a man called Bouchillon?
A. No, sir, I don't know him.
Q. Do you know a man named Richau?
A. Yes.
Q. He was not there?
A. Well I couldn't say whether he was or not, I don't know.
Q. Do you know Norman Simmons?
A. Yes, sir.
Q. Known him all of your life?
A. Well, no, I wouldn't say that, I know him a good while.
Q. He was the sheriff of that Parish four or five years, wasn't he?
A. They said he was, I don't know.

Q. Was he not there?

A. I can't say.

Q. Well now, tell us who was there?

A. Well now, I don't remember seeing anybody in there that I would call their names. I noticed Mr. Lem Williams and Mr. Bouchillon, I know them two were in there, but as far as the others, I didn't notice them.

Q. Didn't notice them?

A. No, sir.

Q. It is a little room isn't it, about 8 x 10?

A. It was a pretty small room, but I can't say who was in there.

Q. About how many men were in there?

A. There seemed to be four or five.

Q. You didn't notice any of them?

273 A. I paid not of them any attention.

Q. Well, what other offices in Bogalusa did you go to to get waste paper and stuff to carry it out to your truck?

Objection: Mr. Higgins:

I object if your Honor please, on the ground it is irrelevant and immaterial.

The Court:

Well, it is cross examination.

By Mr. Dufour:

Q. What other places did you go to, or office, and carry out their waste paper baskets and take out the trash and put it in your truck?

A. Well, I didn't exactly go to anybody else's office, I just went around to offices and houses and such like places, and where they had stuff in their baskets it

was my duty to take it out, where they packed it in barrels I had to take the barrels out and unload it on the truck.

Q. Well, there was an alley alongside of this place?

A. Yes, but you can't get in from the back.

Q. Well, you could have walked in, couldn't you?

A. Yes, by climbing a fence.

Q. Did you climb a fence when you went in?

A. No, sir, I went in from the gate.

Q. You could have gone in the front if there was any trash there?

274 A. Yes, sir.

Q. You didn't do that?

A. I went in from the front, and came back the way I went in, the front gate.

Q. I am talking about the alley, you are talking about the front. You didn't go through the alley to see if there was any trash back there?

A. Not that alley, because you can't get through on account of the big sand piled there.

Q. You could get through on foot, couldn't you?

A. Yes.

Q. When did you get your truck away from the front of that place?

A. I never did, my brother did it.

Q. Didn't you go back to the place?

A. No, sir.

Q. You say the truck was right in front of the gate?

A. Yes, sir.

Cross Examination.

By Mr. Talley:

Q. I believe you stated Mr. Felts that you were about 10 or 15 feet away from the office when the firing started, is that right?

A. Something like that, I don't know just exactly.

Q. Were you going to the office, or going back to your truck?

A. I was going to the office.

Q. When the firing started?

A. When the firing started.

Q. Now were you going straight from the
275 gate to the office?

A. Yes, sir.

Q. I believe you also stated that even though you were 15 feet from the office you couldn't see Lem Williams?

A. No, sir, I couldn't see him, because the door cut me off.

Q. Were you going straight from the gate to the office?

A. Yes, sir.

Q. Alright. Now, does the door open out or in?

A. I can't say.

Q. You can't say?

A. No, sir.

Q. You couldn't see him on a stright line from the gate where you were going?

A. No, sir, not during that time. If I had been right toward—when I turned around I found I had to go back and go around some people to get out and that threw me back from the front of his office.

Q. Well, why did you turn around to get by some people?

A. Well, that was during the time I was just sitting —I sit the basket down and whirled back around.

Q. Before you sit the basket down, were you not going right straight back to his office?

A. Yes, sir.

Q. And still you couldn't see him?
A. No, sir, I couldn't see him.
Q. Could you have seen him had you been out the gate?

276 Objection: Mr. Higgins:
I object on the ground it calls for the opinion of the witness.

The Court:
He knows whether he could see him.

By Mr. Talley:
I will frame the question differently.

Q. Could you have seen Mr. Williams had he been standing at the door at the time of the shooting, had you been standing at the gate?
A. I can't say.
Q. You couldn't see it?
A. No, sir.
Q. Were you not there?
A. No, sir.
Q. Were you not within 15 feet of the office?
A. Yes, sir.
Q. And you couldn't see him?
A. No, sir.
Q. Was he standing in the door?
A. I couldn't say.
Q. You couldn't see the door, could you?
A. I could see it.
Q. The door is alongside of the building, is it not? And you were coming from the building, from the end?
A. I was coming right straight in front down the corner of the building.

Q. Right straight in front and yet you couldn't see in the door?

A. (No answer.)

Q. You couldn't have seen him if you had been in the gate?

A. I don't know, I couldn't say.

Q. But you stated some shots were in the side of the residence and in the gallery upstairs?

277 A. Yes.

Q. Why was it that you examined those?

A. Well, because I was just thrown there with a bunch going around and looking.

Q. Were you ever employed by the Great Southern?

A. Sir?

Q. Were you ever employed by the Great Southern?

A. Yes, sir.

Q. Did they fire you?

A. No, sir.

Q. You quit?

A. No, sir.

Q. Well, how did you get out of their employment then?

A. The big engine broke down and everything shut down, and after I stayed there three or four weeks, I went to work for the city on the clean up job.

Q. Then you didn't quit, and you didn't get fired?

A. No, sir.

Q. You were a member of the Union before you left?

A. I was.

Q. They didn't fire you for that, did they?

A. Not at that time.

Q. Not at that time. Well, did they ever fire you for it?

A. No, sir.

Re-Direct Examination.

By Mr. Higgins:

Q. Do you know if the company knew you were a member of the Union at the time you worked for them?

A. I do not.

Q. Could you state how many men you saw in the yard that were armed?

A. No, I could not.

Q. Could you approximate it, about how
278 many?

A. Well, from the crowd it looked to be, to the best of my knowledge and the best I paid any attention to, there must have been around 50 or 60 men.

Q. Now, what gate did you have your truck stationed at?

A. At the big gate.

Q. What road?

A. Columbia Road.

Q. What gate would you enter to go in and get the garbage or trash that you are supposed to take out?

A. I always had to go to his front gate, his big front gate.

E. C. ROWAN, witness, being duly sworn and examined on behalf of the Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. E. C. Rowan.

Q. Mr. Rowan, in answering questions I wish you would talk loud and slow, because the stenographer has

to get it down and the Jury must hear what you have got to say. Where were you living during November 1919?

A. At Bogalusa. I left Bogalusa two weeks before this killing, I don't remember the exact date, I came to New Orleans went back at or about—I am trying to remember—about two weeks before the killing
279 I had left Bogalusa—

Q. How long had you left there?

A. I went there about 1907, lived there about three or four years—

Q. What was your business?

A. I first operated a saw mill of my own and I worked for the Great Southern Lumber Company part of the time, afterwards at times. I went away for about three years that time, then I came back and I had been there about four years at the time of this killing and I moved away. I had been there off and on for about twelve years but I was away for about three years.

Q. Did you know Mr. Lem Williams?

A. I did so.

Q. L. E. Williams?

A. Yes, sir.

Q. How long had you known him?

A. I knew him slightly before, but I never paid any attention to him, just knew him by sight until this Union was organized, and from then on I knew him fairly well.

Q. What was his general reputation in the community for peace and quiet?

A. It was good, excellent I suppose.

Q. Do you know a man named O'Rourke?

A. I knew Mr. O'Rourke simply after this labor Union was organized, only slightly, I knew Mr.
280 Williams well by this time.

Q. How long had O'Rourke lived in that community?

A. I only knew him about two months, I don't know how long he lived there, I just knew him about two months.

Q. What would you say was his general reputation in that community for peace and quiet?

A. What I knew of him it was good, what I heard and what I saw.

Q. Do you know a man by the name of Porter Bouchillon?

A. I did, sir.

Q. How long had you known him?

A. I had known him for a year about, fairly well.

Q. What was his general reputation for peace and quiet?

Mr. Miller:

There is no question of anyone's reputation other than Williams involved in this case.

Mr. Higgins:

It is alleged that these men congregated there for the purpose of resisting arrest. I think it is relevant to show their character and general reputation as law abiding citizens, and not people who flaunted the law.

The Court:

The reputation of the others would not be relevant other than Williams. I don't see the relevancy
281 of any one except the man concerned in this case.

Mr. Higgins:

Alright, we reserve a bill. I would like to get the same answer for the other men in the office and let the ruling of the Court and the reservation apply to each one.

Q. Did you know a man by the name of Armand Bouchillon?

A. Yes.

Q. What was his general reputation in the community for peace and quietness?

Mr. Miller:

Same objection.

The Court:

I make the same ruling.

Mr. Higgins:

I reserve the same bill.

Q. Did you know a man by the name of Tom Gaines?

A. Yes.

Q. What was his general reputation in the community for peace and quietness?

Mr. Miller:

Same objection.

The Court:

I make the same ruling.

Mr. Higgins:

I reserve the same bill.

Q. Did you know a man by the name of Clay Richau?

A. I had known him for several years.

Q. What was his general reputation in the community for peace and quietness?

Mr. Miller:

Same objection.

The Court:

I make the same ruling.

282 Mr. Higgins:

I reserve the sane bill.

Q. Mr. Rowan, how closdy associated were you with Mr. Williams during the time of the labor trouble in Bogalusa?

A. We were closely associated, sir.

Q. Did you ever have occasion to visit his office?

A. I did sir, several tines.

Q. Can you state whetler or not he had any fire arms or ammunition in tlat office?

Mr. Dufour:

We object. The questiou should be whether there were any fire arms in th office on that day. The fact that the man didn't have fire arms on other occasions, does not mean that le did not have a gun in his office on that particular dy.

Mr. Higgins:

We want to show that tiere was not any arsenal in there as alleged in the aiswer there was this day.

The Court:
I sustain the objection.

Mr. Higgins: We reserve a bill.

Q. Have you ever seen Lem Williams carry a gun or pistol?

Objection: Mr. Dufour:
We object, it is not relevant to any issue in this case.

The Court:
I don't see the relevancy in referring to any other date than that. I will let you prove what the
283 conditions at this time and place.

Mr. Higgins:
I reserve a bill.

Q. Did you know a man by the name of Wiley Macgee?
A. Quite well, sir.
Q. Will you state what his general reputation in the community was for peace and quietness?

Mr. Dufour:
If the Court please, we are not trying Wiley Macgee, Wiley Macgee is a police officer of the city of Bogalusa. We are not going into the question of whether he is a man of good reputation or not.

The Court:
I can't see the relevancy of Macgee's reputation.

Mr. Higgins:
Let me reserve a bill.

Q. I want to ask the same question about Carson. Do you know a man by the name of Bob Carson?

A. Quite well.

Q. What would you say was his general reputation in that community for peace and quietness?

Mr. Dufour:

Same objection.

The Court:

I make the same ruling.

Mr. Higgins:

I reserve the same bill.

Q. Do you know who was the Mayor of Bogalusa during 1919?

A. Mr. Sullivan.

Q. What Sullivan is that?

A. Mr. W. H. Sullivan, President—I mean General Manager of the Great Southern Lumber Com-
284 pany.

Q. Do you know whether or not he was the Mayor of Bogalusa on November 22, 1919?

A. He was.

Q. Do you know whether or not he was the General Manager of the Great Southern Lumber Company on November 22, 1919?

A. He was.

Q. Can you state of your own knowledge what the relations were between the employees of the Great Southern Lumber Co. and the Great Southern Lumber Co., immediately prior to the killing and on the date of the killing?

Mr. Dufour:

We object to that as calling for the opinion of the witness.

The Court:

I am going to hear what he is going to say. His means of knowledge can be tested on cross examination.

A. The men were pleading not to be killed by these gun men.

Mr. Dufour:

Now we ask your Honor to strike that out. All he wanted was a chance to say that and I ask your Honor to strike it out and protect us against that kind of testimony by a witness who bias is plainly manifest.

285 The Court:

That is not responsive to the question. I will have to strike it out and I instruct the Jury to disregard the witness' answer.

By Mr. Higgins:

Q. Mr. Rowan, I asked you what the relations between the employees of the Great Southern Lumber Company and the company were at that time, and see if you cannot state what you know about the relations?

Mr. Dufour:

If your Honor please, he was not an employee, he is going to go on and give us a lot of gossip from his standpoint which is not evidence, and that is where the trouble is.

Mr. Higgins:

I don't think those are fair statements of counsel. His Honor can rule out any hearsay testimony, but he can't tell in advance what this witness is going to testify to.

The Court:

Mr. Rowan, be careful only to state facts and no expression of opinion.

The Witness:

These were facts, not hear say, absolute facts. I can testify both the Mayor and City Attorney—

286 The Court:

Well just state the facts.

The Witness:

But if I can't give what I heard them people say—just state that again and I will see if I can give you—

By Mr. Higgins:

Q. I asked you to state what relation—what the relations were between the employees of the company and the company immediately prior to the killing and at the time of the killing?

The Court:

You mean there was a strike.

Mr. Higgins:

What the conditions were at that time.

A. I can give the statements of the men, of the laborers.

Mr. Dufour:

He stated he can give the statements of the laborers. Now your Honor can see just what he is going to do.

The Court:

That is what is not permitted. You can state whether or not they were on strike.

A. Well, they were not on strike, but they had been locked out.

By Mr. Higgins:

Q. Were they working at that time, or was the company running at that time?

A. No, sir, the mill was not running, they were employing some men but the mill was not
287 running.

Q. About two weeks prior to the killing were you present at the conference between Lem Williams and Mr. Sullivan, who was Manager of the saw mill?

A. I was.

Q. Would you kindly state what the purpose of that conference was?

A. They were trying to get together.

Q. What was the reason why they were trying to get together?

A. Well, Mr. Williams always had hopes that he could explain to Mr. Sullivan—

Mr. Dufour:

We don't want to know about Mr. Williams hopes.

A. Well, Mr. Williams carried his grievance to Mr. Sullivan as to how he had been treated, and the men

of the Union had been treated by these gun men and others, and he asked for relief, asked if he would stop it.

Q. What gun men do you refer to?

A. I refer to Wiley Macgee, Otto Sherman, Jim Rogers, Bob Carson and—I don't know—certain names —there were probably 75 gun men, I remember those four, he called out Sherman and Jim Rogers plainly by name, two or three times, stated to Mr.
288 Sullivan as to how they had treated them, that he had begged the city authorities to do something for them, and he begged Mr. Sullivan not to allow them to be treated that way by men employed by him, who had done those things.

Q. Were those men in the employ of Sullivan at that time?

A. They were, sir.

Q. And Mr. Sullivan did employ these men as employees of the Great Southern Lumber Company?

A. He did, sir, in times of peace he used them as laborers, and in times of war, like they were, gun men.

Mr. Dufour:

I ask that that answer be stricken out.

By Mr. Higgins:

Q. Why do you say they were gun men?

A. They carried guns open and used them open, they were called that all the time by everyone in the city.

Q. Did you ever have any occasion to see this man Macgee use his gun?

A. I saw him hit Lambright unmercifully over the head with his gun, Mr. Lambright who is now an employee of this company. I am talking only about white men. I saw him beat several negroes up, but at that time I thought it was right.

Q. Will you state whether or not you know of your own knowledge, the Great Southern Lumber Company ran a commissary?

289 A. They did, sir.

Q. Did they, or did they not sell arms, and ammunition?

A. Yes, they did.

Q. Do you know whether or not Mr. Sullivan gave orders to any of his employees engaged in running this commissary with reference to whom to sell and who not to sell arms and ammunitions at times prior to this trouble?

The Court:

State only what you know of your own knowledge.

A. I know they wouldn't sell, now that is my own knowledge, it is only hearsay what orders he gave to his employees, but of my own knowledge I know that they would not sell to a man except a man approved by the company, he was given to them as one who was alright to sell to.

Q. Were you present at any time when anybody requested to purchase arms and ammunitions and was refused?

A. I was.

Q. Will you state that occasion?

A. I think a man by the name of Simmons, he had charge of the hardware and arms, but anyway Bill Mitchell, he was one of their employees, one of their gun men—he ain't in their service, he is employed by the city—Simmons, he said, why don't you let him have it, and oh, he says, he is alright. Oh well, he

290 says, the old man told me and I will do what the old man tells me to do. He referred to Mr. Sullivan as the old man but he didn't call him by

name, he called him old man. He says, if the old man says so I will let him have it.

Q. What was the result of the conference between Williams and Mr. Sullivan on the occasion you just spoke about a minute ago?

A. Mr. Sullivan said he didn't know until then how badly the men had been treated, but he was going to stop it.

Q. You were present when he said that?

A. I was so, not by myself, there were hundreds there.

Q. Will you state what the extent of the Great Southern Lumber Company's holdings are in the town of Bogalusa and the Parish of Washington?

A. I heard Mr. Sullivan state it was eighty per-cent in the city of Bogalusa, and I know offhand they owned a great many thousand acres in the Parish of Washington, but they controlled the whole thing.

Q. Can you state what the condition in Bogalusa would be if the Great Southern Lumber Company shut down its mill?

A. They practically control every man in the city of Bogalusa, practically every man would go broke, they can wreck every man there, they can force every
291 man to leave if he showed any independence.

Mr. Miller:

I will ask that all that be stricken out as hearsay, that is just the kind of gossip that has been retailed.

The Witness:

They sent me away. That shows how peaceable—

Mr. Dufour:

If your Honor please—

The Witness:
I have seen them put them on the train—

The Court:
Let it stay in, you can cross examine him on what he really knows, he testifies as if he knows.

The Witness:
I know it.

By Mr. Higgins:
Q. Did you have occasion to employ colored labor while you were engaged in the saw mill business?
A. I did, sir.
Q. Did you have any interference with your labor by Macgee while he was an employee of the Great Southern Lumber Company?
A. No, sir, he told me—

292 Mr. Dufour:
We object, if your Honor please, what Macgee told him four years before this incident.

The Court:
I will have to exclude that.

The Witness:
He didn't interfere with my labor then, I will say that for him, I suppose that is what—

By Mr. Higgins:
Q. Do you know whether Wiley Macgee ever acted as labor agent for the Great Southern Lumber Co.?
A. Only by hearsay. You mean bring men into the mill? Yes, I know that.

Q. I mean as to whether or not he was sent out to get men to work?

A. I know he was, sir.

Q. Will you state how he conducted himself on those occasions, particularly with reference to colored labor?

Mr. Dufour:

We object, if your Honor please. What has that got to do with this case?

The Court:

What are you talking about now?

Mr. Higgins:

That is right around the time of this trouble.

Mr. Dufour:

He didn't work for us at that time and hadn't for several months.

293 Mr. Higgins:

Well, we will find that out.

Mr. Dufour:

Sure, you will find that out and a lot of things besides.

By Mr. Higgins:

Q. When was the last time that you know of that Wiley Macgee went out to get employees or laborers, particularly colored laborers, for the mill?

A. It has been several years, that I know of my own knowledge.

Q. Your own personal knowledge?

A. Well, about 1913 to my personal knowledge, and most of the time was before that.

Q. Do you know whether or not the Great Southern Lumber Company had a fence around its property?

A. They did, sir.

Q. Will you state whether or not they had guards at this gate?

A. They did, sir.

Q. Did you see Wiley Macgee serve as a guard?

A. I have, sir, I seen him there going in and out of the gate as a guard.

Q. Do you know whether he resided in any houses that were owned in Bogalusa by the Great Southern Lumber Co.?

A. He resided in them all the time, when they first started them, building employees houses.

294 Cross Examination.

By Mr. Miller:

Q. You say you saw Wiley Macgee as a guard going in and out?

A. Yes.

Q. How did you know he was a guard?

A. You could see the glint of his pistol, sometimes you could see the pistol itself.

Q. He was a regular policeman of the city of Bogalusa at that time, was he not?

A. No, sir, he was not a regular policeman. I have a copy of the proceedings of the Council where Mr. Sullivan tried to put him on as a policeman and they put him off, they wouldn't have him. I have a report of the meeting and I can read you the record.

Q. That was one of those meetings that was controlled by the strikers was it not, or the labor union?

A. Positively it was not, sir. They invited me to speak and the others. They were as polite as they could

be and made no attempt to control us. They talked to us a [as] men fighting for their lives and at no time tried to control us.

Q. Was the Council ever buldozed or controlled?

A. Not while I was there. I couldn't say I was over there every day, but I was over there two or three times a week, and certainly it was not any time
295 I was over there.

Q. Not at any time you were there?

A. No, sir.

Q. Then it is not true that immediately after these troubles began, the strikers dominated and controlled the city Council?

A. It was absolutely false and it was commonly remarked in the newspapers that the papers stated the strikers never had been in the least bit lawless.

Q. It is not true then that Wiley Macgee was a regularly sworn policeman of the city of Bogalusa at the time of the killing of Lem Williams and for some weeks before that—now please wait a minute, listen, listen, to the question—and paid by the city of Bogalusa, that is not correct is it?

A. No, sir, for one month only and no more, sir, and then he was taken off. I was running a paper over there, an independent paper, and I used to get reports of the meetings, and when the people saw what character this man was, seeing the character of this man was such, they wouldn't have him and the Chief of Police also stated they didn't want him and then he was put on and paid by the Great Southern Lumber Company.

Q. You don't know what that was so or not?

A. No, but the City Council, they said they would not have him and in this open meeting—I attended the meetings as a citizen and I asked, I said
296 I didn't want such a man as that who I knew was going to kill—

Q. You don't know this of your own knowledge, he was not a police officer, not carried on the pay roll at the time of the killing of these men, and not paid by the city, you don't know that do you, of your own knowledge?

A. I say it, sir, I don't know what falsifying they have done during the interval since, but I have it in the papers and reports of that meeting where they did it.

Q. Oh, if it was in your newspaper, then it must be so?

A. Right, sir, and a full discussion of the meeting.

Q. You say there were 200 men present at the time you had this interview with Mr. Sullivan?

A. That was in the Union, yes, sir, there were probably 200 men present, I don't remember exactly who were in the labor union hall.

Q. Who all came to the meeting?

A. Not one man that was not a member of the Union.

Q. Don't you think what you asked of Mr. Sullivan—

A. I am a lover of justice, sir, and all the money in the world couldn't make me do a single thing against justice.

Q. Well now, they stated their grievance
297 there, did they not?

A. Yes, sir.

Q. Mr. Sullivan stated he didn't know things were so bad?

A. He said he didn't have any idea things were as bad as they were.

Q. And they were as bad as you said they were, he said that he would see that it was righted?

A. Yes, sir.

Q. When was this, how long before the killing?

A. Oh, I don't know exactly, it was about three weeks before the killing, as near as I can guess.

Q. You are quite certain of that?

A. I guess it was three weeks before the killing, but I am not sure.

Q. That would be about the first of November?

A. Somewhere about then, it was before I left for New Orleans, two weeks or so, that is a mere guess though.

Q. Don't you know as a matter of fact that Mr. Sullivan was not in Bogalusa for a month or six weeks, or more preceding this killing, and he only got back a few days before that?

A. I remember quite well when he came back. It was just before he came back I went over to see him and Mr. Cassidy with the other members of the committee. I remember he was off on a vacation and got back I think, it must have been three weeks before the killing; that was after he came back.

298 Q. During all these occurrences Mr. Sullivan was not around there?

A. No, sir, but we sent telegram, or rather they sent a telegram and I had it copied for them on my typewriter and sent the telegram off.

Q. You mean the Union wrote them, or that you prepared them?

A. Well, you see he was rather an uneducated sort of a fellow and he used to come over and get me to copy it on the typewriter and he brought this over and got me to make a copy of the telegram on my typewriter.

Q. Where do you live now?

A. I am living in Natchez, Miss.

Q. Were you here as a witness in the case of Dacus against the Great Southern Lumber Co.?

A. I most assuredly was, sir.

Q. You came down on this occasion under a subpoena?

A. I asked them to subpoena me I would crawl a thousand miles to get justice done.

Q. That is to say what you consider justice?

A. Yes, what I consider justice.

Q. You came down then—

A. They wanted me for Dacus and I would have come for any one else, I asked them to send me a subpoena, because I thought may be I would get through
298½ by this date, but here I am still here, and it is costing me money every day I am away from my business.

Q. That explains your bitterness?

A. I ain't got a bit of bitterness, ain't got nothing but love for my fellowman.

Q. You were also a witness in the Dacus case?

A. Most assuredly I was.

Q. And you attended three sessions of the Grand Jury of Washington Parish that November—

A. I was right there and ready to answer anything they asked me.

Q. You attended those sessions of the Grand Jury did you not?

A. I attended the first session and after they talked to me I told them of the bribery—

Q. Here, we don't want a stump speech?

A. I attended one session according to the petition of 800 men, asking that these men be prosecuted and I was told by the Sheriff and the District Attorney that these murderers that had incited and started a riot could not be convicted and I told them they had a whole lot to—

Q. That is all talk, that is nothing but a stump speech—

A. They intimated to me they had a whole lot of things to bring out and they never proved a thing, they attempted to buldoze me and—

299 Mr. Dufour:

We have a right to show the bias of the witness by showing that at his own expense this lover of justice attended these sessions.

A. (Witness continuing): I will be very frank with you Mr. Dufour, I have not one bit of malice in my heart, even for the murderers, but I hope—

Mr. Dufour:

I ask that all that be stricken out, if your Honor please, that he has not any malice even for the murderers.

A. (Witness continuing)—No, not one bit. That is perfectly evident.

The Court:

Well, that was brought out by your question.

By Mr. Miller:

Q. This man Sherman, was he a member of the Fire Department?

A. He was Mr. Sullivan's private detective, that is all he was, sir.

By Mr. Dufour:

Q. Wait a minute, can't you answer the question?

A. He was not at the head of the fire department, any way later Mr. Sullivan made him head of the gun men.

Q. He was not a member of the Fire Department at the time of these troubles, was he?

300 A. As to that I can't say what they made him, I don't know, Mr. Pittman was head of the fire department at that time and I know there was a great objection to his being kept but later Mr. Sullivan—I think Mr. Pittman at that time was the chief, I am pretty sure he was the chief at that time.

By Mr. Miller:

Q. Don't you know the Government of Bogalusa is by the Commission Council?

A. The Government of Bogalusa is Mr. Sullivan alone, he appoints a commissioner.

Q. Didn't they beat him one time a couple of years ago?

A. You mean Mr. Lindsley beat him?

Q. When.

A. When Mr. Lindsley tried to be independent, Mr. Lindsley is no longer in Bogalusa.

Q. He has got a better job?

A. Every one did what Mr. Sullivan said, or else he had to beat it.

Q. He didn't control the City Council?

A. Absolutely he controlled it, because he can buy any man and get anything he wants done, he absolutely controls it either by fear of his gun men or—

Q. So you want this Jury to believe the commissioner of Bogalusa, elected by the people, are men who could be bought by Mr. Sullivan?

301 A. Yes, sir, for a few years he appointed them, they weren't even elected.

Q. Don't you know that the charter of Bogalusa provides for the election of these men just the same as any other city of that class, outside of Mr. Sullivan.

A. I know he provided they were not elected except as he choose, he appointed them, he appointed Mr. Wilcox. Then when Mr. Wilcox ran with a friend of mine and he was beaten.

Q. Now, Mr. Rowan, you know you have read the Laws of this State, you know the charter of Bogalusa, Act 14, of 1914, created by the Government of the City of Bogalusa, and either the act names the Aldermen, or they were elected at a public mass meeting?

A. A public mass meeting of Mr. Sullivan's own employees. He fixed it so they would not elect any man but the one he wanted, or put some one else that he didn't want. He fixed it so that the commission which was appointed were the ones he wanted and not the mass meeting.

Q. Since 1916 they have all been elected by the people?

A. They have been elected only now and then.

Q. Mr. Regan was elected, he was not a nominee of Mr. Sullivan's?

A. He was against Mr. Sullivan and finally took to drink and was arrested.

302

Q. That was the first time, wasn't it?

A. Yes, sir he wouldn't have drunkenness or people carrying pistols. They finally put him in jail and wouldn't allow—

Q. You got a record of that?

A. I was right there and I put it in my newspaper. Mr. Lindsley tried to some some little independence and later on Mr. Lindsley had to go.

Q. Do you know what Lindsley is doing now?

A. No, sir, I do not.

Q. How do you know he got scared and left?

A. I don't mean to say he got scared and left, but he just had to leave. He said no man was going to run him.

Q. Lindsley is a good man?

A. Lindsley, except being a weak man, has got a good deal of pretty good character about him, but he has not got grit enough to make him stand up and he let these gossips—

Q. That is he let you—

A. I never was a malicious gossip in all my life, Mr. Lindsley's father was run away from there, Bogalusa, too. He told me he was going to—

Q. Now that you got that off your chest, I suppose you feel better and can answer some questions?

303 A. I would be very glad to answer any questions in which character is impuned in any way.

By Mr. Higgins:

Q. Just a minute, I understood you to say you published all this in your paper?

A. I only run it two weeks and then I turned it over to Mr. Williams, and I warned him he would be killed if he kept on publishing it.

Mr. Dufour:

If your Honor please, don't you think we ought to have a little less of this man's vindictiveness, I warned him he would be killed, what have we to do with this warning? It has just gone too far altogether.

By Mr. Higgins:

Q. I asked you if you published this in your newspaper?

A. Published what in my newspaper, please sir?

Q. Published what you said just now?

A. All I said, no, but I published a great deal of it.

Q. About the Great Southern Lumber Co. having gun men and naming them?

A. Every word of it, yes, sir.

Mr. Miller:

We object to whether he published it in his paper or not.

304 The Court:

I sustain the objection.

By Mr. Higgins:

Q. There never was an indictment or information filed against you for libel for anything you published in that paper was there?

Mr. Dufour:

We object, if your Honor please.

The Court:

I sustain the objection.

By Mr. Higgins:

Q. After your conference with Mr. Sullivan and his promise to right conditions, were they righted while you were there?

A. No, sir, they were not.

By Mr. Dufour:

Q. Did you leave right after this conference with Mr. Sullivan?

A. Not right after the conference, I judge it was about a week after that.

Q. Can you fix the date of that conference?

A. I believe I can find some papers that will fix the date of that conference.

Q. I want you to fix it?

A. Well, I can't fix it exactly, I am guessing, it was a week before I left for New Orleans, but I am not sure—

I left for New Orleans two weeks—I don't
305 know—it was Sunday, Sunday evening. They wished me to come back later—if I can find that letter—Mrs. Williams, she asked me to come back for the public meeting, there was a public meeting and I think that would fix the date.

Q. You fix it three weeks before?

A. I am only guessing. There was a public meeting of the Union, I could fix it exactly, the record of the Union will fix it absolutely.

Q. We don't want the Union's record.

Q.[A.] Well, my memory is not absolutely correct, I don't know, and I don't know the date of the killing.

By Mr. Higgins:

Q. As a matter of fact your expenses are to be paid for your coming down here, are they not?

A. I have been down here three times.

Q. I mean in this case, I don't know anything about the others?

A. My railroad fare down and back I have been paid this time.

By Mr. Dufour:

Q. Who paid them?

A. Mr. Kenner paid me the amount of my regular fare here and back.

306 ARMAND BOURGEOIS, witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. Armand Bourgeois.

Q. Where were you living on November 22, 1919?

A. I was living in Bogalusa.

Q. Mr. Bourgeois, all of these men, to the man in the last seat on the side (Counsel indicating the Jurymen) have got to hear what you say, so talk loud and slow, so that everybody can hear. Where were you living?

A. Bogalusa.

Q. How long have you been living there?

A. Well, I can't tell quite, but I lived about 12 or 13 years.

Q. Do you know a man by the name of Lem Williams?

A. Yes, sir.

Q. Where were you on November 22, 1919, between the hours of 12 and 1 o'clock?

A. I believe over at his house.

Q. What building were you in?

A. In the office.

Q. How large is that office?

A. Well, I couldn't tell exactly. I can't tell exactly how large the office is, but something like 16 or 20 feet, I just can't tell exactly.

307 Q. What is the length of the office building?

A. I just can't tell.

Q. You don't know?

A. No.

Q. Who was in there while you were there?

A. Well, while I was there, Lem Williams and me and Tom Gaines and that little fellow McCredie.

Q. While you were there, what happened?

A. Well, a bunch of fellows came in, walked in the yard and through the office and as soon as they walked through the yard and came up to the office, Mr. Williams came to the door and asked what was wanted and Wiley Macgee had his gun and as soon as he saw Mr. Williams in the door in his office he says I am here after you and he shot him down.

Q. You were in the office at that time?

A. Yes, sir.

Q. Did you see Lem Williams when he went to the door?

A. Yes, sir.

Q. Did he have anything in his hands?

A. No, sir, I didn't see anything in his hands.

Q. Now about how many men came in there?

A. Well, I just can't tell you how many.

Q. You don't know how many came?

A. No.

Q. Did you see any other guns outside of the one used by Wiley Macgee?

A. All the rest of them had guns.

308 Q. Were there any other shots fired outside of the shots Wiley Macgee fired?

A. Yes, sir.

Q. Who fired those shots?

A. I don't know, there were so many there, I just can't tell, but it looked to me as many as—it looked to me the whole thing.

Q. What did you do when the shooting took place?

A. I didn't do anything at all, I just stayed right there until they got through shooting and when the firing was over I passed through the window and came back home.

Q. Passed through what window?

A. One of the windows of the office.

Q. Was anybody else shot besides Mr. Williams?

A. What was that?

Q. I say was anybody else shot or wounded outside of Mr. Williams?

A. Yes.

Q. Who else?

A. Bouchillon and Tom Gaines and O'Rourke and Clay Richau, five men.

Q. Do you know where Mr. Williams was shot, where was he wounded?

A. Right here (witness indicating).

Q. Do you know of any other wound in his body, did you examine his body to see if there were any other wounds?

309 A. Yes, sir, right here (witness indicating to the right side) a 38 bullet right here.

Q. Do you know whether or not Mr. Williams died of his wound?

A. What's that?

Q. Did Mr. Williams die of his wound?

A. Yes, sir, he died.

Q. Who else died of wounds?

A. Bouchillon.

Q. Who else?

A. Tom Gaines.

Q. When did they die?

A. They died right away.

Q. Right away?

A. Yes, sir.

Q. Did you see any guns or ammunition in the office where you were?

A. No, sir, I did not see any.

Q. What was Mr. Williams doing just before these men came in the yard?

A. He was sitting down in the office, he always sat down in the office, well it was may be an hour before these fellows came in there, sitting down and talking.

Q. Did you see a man there named Sol Dacus?

A. No, sir, not me.

Q. What time did you go there?

A. Oh about 11 o'clock.

Q. Who fired the first shot?

A. Mr. Wiley Macgee.

Q. Was anybody in the office prior to that time?

A. Not that I saw.

Q. What happened to Clay Richau?

310 A. Well, Clay Richau had a hole right in his back, he died about three minutes after that I believe.

Cross Examination.

By Mr. Miller:

Q. Mr. Bourgeois, who was in the office when the shooting began?

A. Who was in the office?

Q. Who was in the office. Now go slow and let us get that down?

A. Clay Richau and Tom Gaines and O'Rourke and Bouchillon and Jim Williams and a fellow named McCrary.

Q. And Lem Williams and yourself?

A. Yes, sir.

Q. How long had you been there in that office before the shooting started?

A. Well, before the shooting started, just like I tell you about 11 o'clock I had been in.

Q. And the shooting took place about 1 o'clock?

A. What?

Q. The shooting took place about one o'clock?

A. About five minutes before one.

Q. You had been there two hours?

A. No, not—about an hour—no, two hours.

Q. Was anybody else in the office at any time during those two hours except the men you mentioned?

A. Oh well, I can't tell you, how many—may be some before I went in.

Q. I am not asking you before you went in, but during the time you were there, was anyone else

311 there?

A. Well, only those men, that was all that had been there. After that, I don't know how many, after I left.

Q. What?

A. After I left the office, I don't know somebody went in there or not, I went home.

Q. You went home after the shooting?

A. Yes, after the shooting was over.

Q. Did you say you got out of the back window?

A. Yes, out of the back window.

Q. How long after the shooting was it before you got out of the window?

A. Well, I passed through the window as soon as the shooting had been done, as soon as they stopped the shooting.

Q. And left the dead bodies of Lem Williams, Bouchillon, O'Rourke and Gaines in there, didn't you?

A. No, when I left there, only Lem Williams was dead, and Bouchillon and Tom Gaines were in the garage.

Q. How did he get in the garage?

A. I don't know.

Q. Was he in the office when the shooting took place?

A. Yes, sir, I believe he had just left the office, and as soon as we went to the garage that is the time they killed him.

Q. Who was in the office when the shooting took place?

A. When they first started to shoot him I believe he was in the office, yes, sir.

312 Q. You will have to speak a little louder and plainer, I can't catch everything you say. He left the office before the shooting, or after the shooting, or during the shooting?

A. At the time they was doing the shooting.

Q. At the time they were doing the shooting, while the shooting was going on?

A. Well, the fellows was standing outside the passage in the yard and shooting through the office after that.

Q. Did he get shot before he left the office?

A. What?

Q. Did he get shot before he left the office?

A. Who, Tom?

Q. Tom Gaines, yes?

A. I reckon so.

Q. And he ran out toward the garage did he?

A. He went—I didn't see where he left the office but I know the man got killed in the garage.

Q. He had a gun with him, hadn't he?

A. No, sir.

Q. Didn't have a gun when he went?

A. No, sir, nobody had no guns before the shooting had been done.

Q. You swear Tom Gaines didn't have a gun when he went out of the office?

A. I didn't see it.

Q. If he did, you would have seen it?

313 A. I guess had he any gun I would have seen it, but I seen he didn't have no gun at all.

Q. Now, you know a colored man by the name of Sol Dacus?

A. Yes, sir, I know him.

Q. Did you see him at the office any time—I am not talking about at the time of the shooting but any other time?

A. No, sir, I didn't see him no time.

Q. Are you a member of the Union?

A. What's that?

Q. Do you belong to the Union?

A. Yes, sir.

Q. What was your business in Bogalusa?

A. I was working in the log pond.

Q. Working in the log pond?

A. Yes, sir.

Q. For the Great Southern Lumber Co.?

A. Yes, sir.

Q. Are you any relation to Mrs. Williams?

A. Yes, sir, brother in law.

Q. You are her brother in law?

A. Yes, sir.

Q. And you are positive that there were no weapons in that office?

A. What is that?

Q. You heard me, didn't you?

A. You got to speak a little louder for me.

Q. Are you sure there were no weapons, guns or pistols in that office?

A. I didn't see none at all, never in there, I didn't see none at all.

Q. When Lem Williams walked to the door,
314 had anybody said anything to him?

A. No, I didn't see nothing in his hand.

Q. Did anybody say anything to him?

A. No, sir.

Q. Did you hear anybody outside say that they had a warrant and to put down the gun? Didn't you hear anything of that sort?

A. No, sir.

Q. When did you first see these men come in the yard?

A. Well, at the time I first saw them, when we were sitting down, I saw them people walking in the yard.

Q. You kept right on sitting there didn't you?

A. Yes, I saw them through the window and just as I saw them—

Q. Oh, do speak louder, I can't hear you?

A. I saw him through the window, I saw him walk to the door, he was sitting down at the typewriter and he walked in the door, and as soon as he walked in the door he says, "what do you want" and Wiley Macgee says "we are after you" and as soon as he says "we are after you" why he shot him down.

Q. Did anybody shoot from the inside of the office at all?

A. Inside, no.

Q. Not at any time?

A. No.

Q. No shots were fired from there?

A. Nothing that I saw.

315 Q. Who was with Wiley Macgee?

A. Oh, quite a lot of people.

Q. Who was right close to him?

A. I don't know his name.

Q. Were there just two of them?

A. Oh no, there were sixty or seventy five.

Q. I am not talking about all the people that were there, but I am asking you who was right there with

Wiley Macgee, and you said you didn't know that fellow's name. Was there only him?

A. Some fellow right close but I don't know who, I knew Mr. Wiley Macgee over there.

Q. Was there only one man right close to Wiley Macgee?

A. Yes, there were some more.

Q. Well, you said you didn't know that fellow, did you know any of the rest of them?

A. No.

Q. Didn't know any of the rest?

A. I know only two men, I know Mr. Wiley Macgee, and I know Mr.—

Q. Well who?

A. Mr. Levert.

Q. Was he there?

A. Mr. Levert, yes.

Q. Was he close to Mr. Wiley Macgee?

A. When the shooting had been done, no.

Q. You don't know who was close to Wiley Macgee then?

A. No, sir.

316 Cross Examination:

By Mr. Talley:

Q. Just tell us who was in the office when you arrived there at 11 o'clock?

A. What is that?

Q. Tell us who was in the office there when you arrived at 11 o'clock?

A. Well, Tom Gaines, Lem Williams, Jim Williams, C. Richau, O'Rourke, Bouchillon and that fellow Corady was in the office and me, that was eight men in the office.

Q. And if O'Rourke and Bouchillon had been out of the office at any time that morning, it was before 11 o'clock?

A. (No answer.)

Q. If O'Rourke and Bouchillon had been out of the office at any time that morning, it was before 11 o'clock, wasn't it?

A. I don't know before I got there.

Q. I see, they stayed there from 11 o'clock until 1 o'clock?

A. I stayed right there until after they killed them and they killed Bouchillon, well O'Rourke passed through the window to get through, passed through the window with C. Richau and what were left in the office there were only two men.

Q. Did you know what Lem Williams was writing on the machine?

A. No, sir I don't know.

Q. Well, do you know as a matter of fact that O'Rourke and Bouchillon brought Sol Dacus there and he was dictating a statement and Lem Williams was writing it and when the whistle blew Dacus
317 got out of the window and went into the swamps, isn't that true?

A. No, I seen no negro at all.

Q. Now, isn't it true you got there just ten minutes before the shooting took place, isn't that true?

A. No, sir.

Q. Haven't you already stated that you came there just ten minutes before, isn't that true?

A. Before the shooting started?

Q. Just ten minutes before the shooting took place?

A. No.

Q. Where did you eat dinner?
A. I didn't eat no dinner.
Q. Where were you when the whistle blew?
A. Where was I when the whistle blew?
Q. Didn't hear any whistle?
A. Yes, I heard the whistle.
Q. Where were you?
A. I was right in the office.
Q. Did you see any cars riding around the streets, driving around the streets?
A. Oh yes, many cars.
Q. Where were you when you saw them?
A. The cars?
Q. Yes?
A. On the road?
Q. Yes?
318 A. What do you mean, at the time of the shooting?
Q. I mean between 11 and 1 o'clock?
A. No, sir I didn't see no cars.
Q. Didn't see any cars?
A. I was sitting in the office.
Q. You didn't eat any dinner?
A. I ate dinner when I came back home.
Q. Did you eat dinner that afternoon?
A. Yes, sir.
Q. Why did you stay so long in the office?
A. I didn't stay so long.
Q. You stayed there from 11 to 1 o'clock, what did you do there?
A. Oh, just talking.
Q. You deny positively that Sol Dacus was in the office at all, at any time between 11 and 1 o'clock?
A. I didn't see him at all.

By Mr. Dufour:

I am going to ask him a question. You gave the names of eight men in that office?

A. Eight men in the office.

Q. You gave the names of them. Was there anybody else in that office from 11 o'clock to 1 o'clock when you were there?

A. When I went into the office, just as I told you, there were eight men.

Q. Did anybody else come into that office during the time you were there?

A. No.

Q. You are sure?

319 A. Yes.

Q. No other men?

A. No, not that I saw.

Q. If any other men had come into that office, you would have seen them?

A. Where I was.

Q. You were right there?

A. Yes, sir.

Q. It is a very small office?

A. Yes, sir.

Q. And nobody could come in without your seeing them?

A. No.

Q. And nobody did come in?

A. No.

Q. Are you sure of that?

A. Yes, sir, I am sure.

Q. And that applies to the time you came there at 11 o'clock up to 1 o'clock when the shooting started, that is true is it, or five minutes to 1?

A. A few minutes to one.

Q. From 11 o'clock to five minutes to 1, nobody came into into the office but the eight men that you spoke of?

A. Well, no, I don't believe any one came in that office at that time.

Q. Well, why is your memory so suddenly refreshed?

A. Why?

Q. You say only eight men were in there?

A. There were only eight men.

Q. And nobody else?

A. I didn't see them.

Q. If anybody had come in you would have seen them?

A. I reckon so.

320 By Mr. Higgins:

Q. You didn't watch that door all the time you were there?

A. No, sir, I didn't watch.

Q. What were you doing talking to these men?

A. Talking to these men.

Q. You were not employed at that time were you?

A. No.

Q. Do you know where O'Rourke was shot?

A. O'Rourke, no, I never saw it.

J. D. NICHOLS; witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination:

By Mr. Higgins:

Q. What is your name?

A. J. D. Nichols.

Q. Where were you living on November 22, 1919?

A. I was living in the Richardson Addition to Bogalusa, La.

Q. All of these men here have got to hear what you say, so please talk loud and slow. This man here has got to take it all down what you say?

A. Yes, sir.

Q. You were living at Bogalusa?

A. At Bogalusa, yes.

Q. How long did you live there?

A. I lived there about nine years, since 1909.

Q. What was your occupation at that time?

A. Sawyer Great Southern Lumber Co.

Q. Were you in the employ of the Great Southern Lumber Co. on November 22, 1919?

A. No, sir.

321 Q. Why?

A. The mill shut down for about ninety days. None of us was employed at that time except some few doing repair work at the plant.

Q. In other words, all of the employees were out of employment at that time?

A. Practically, yes.

Q. Did you have occasion to go the office of Lem Williams on Columbia road on November 22, 1919?

A. I did.

Q. What time did you go there?

A. I went there three times, the first time about nine o'clock in the morning and again between 10:30 and 11, as near as I can remember, I was there again at 12 o'clock, left there at 12:25.

Q. Who was there at 9 o'clock at Williams' office?

A. Well I didn't go in the office, I only went in the door and talked to Mr. Williams, I didn't go in. There were several people in the office but I didn't see who they were.

Q. On the second visit, did you go in?

A. Yes.

Q. Who did you see?

A. Eddie Bouchillon, Stanley O'Rourke and Tom Gaines, and, I am not sure as to who else were in there. There were several in the office and I remember those three because they were there quite often.

322 Q. Did you see a man named Sol Dacus there?

A. No, sir.

Q. Now on your third visits to the office there, whom did you see?

A. Well about the same fellows as on the second.

Q. Did you see Dacus on that occasion?

A. No, sir, I did not.

Q. How long did you know Mr. L. E. Williams?

A. Well, I have known him practically all the time I have been in town.

Q. What was his reputation as to peace and quiet?

A. Very good to my knowledge.

Q. What position did he hold?

A. Well, he held several postions, he was in the Police Department for some time, he was also in the Fire Department of the City for quite a while, and he worked for the Bogalusa Paper Co. for some time, and at the present time, when the trouble came up he was running his own business as a garage man on Columbia Road and also acting as President of the Central Trade Labor Council, and also President of the carpenters and joiners association.

Q. Talk louder, I have to talk loud from over here and I am sure you can do it where you are?

A. I might add he was very prominent in sports, he was known as a very good wrestler and took an active part in the sports of this city among the

323 athletic bunch.

Q. How large a man was he?

A. He was a man I should judge to be about five feet nine something of that kind.

Q. What about his weight?

A. About 175 or 80 pounds.

Q. Do you know whether Williams had an attorney in his employment at that time as President of that Union?

A. Yes, sir, he did.

Q. Who was his attorney?

A. Mr. Amos L. Ponder of Amite.

Q. Did you ever have occasion to go with Mr. Williams and consult with Mr. Ponder?

Mr. Dufour:

We object, if your Honor please, whether he went with Mr. Williams and talked with his lawyer cannot possibly have anything to do with this case.

Mr. Higgins:

I am now going to establish the fact that he had legal advice.

Mr. Dufour:

It would not make any difference if he had all the legal advice in the world.

The Court:

I sustain the objection.

Mr. Higgins:

I reserve a bill.

324 Mr. Higgins:

If the Court please, I would like to get a ruling at this time. This answer sets up that these men were Bolshevics setting up a Red Russia over there, that they were outlaws bent to the purpose of resisting arrest. Now, this testimony is either relevant in putting our case in chief, or it certainly would be relevant in requttal [rebuttal].

The Court:

I cannot tell about the rebuttal until the time comes, but the fact of the consultation with an attorney I don't know if that is relevant. It is certainly not relevant at this time so far as I can see.

Mr. Higgins:

It tends to show that these are not the tactics of people who are about to violate the law.

Q. Were you present when the shooting took place?

A. No, sir, I was not.

Q. Where were you then?

A. I was on my way home from his office. I had left there about ten minutes previous.

Q. Did you hear the siren whistle of the Great Southern Lumber Co. blowing about that time?

A. I did.

Q. Where was that whistle located?

A. Located in the power house of the Great Southern Lumber Co., who own the power house.

Q. Did you go over there after the shooting?

325 A. I started but I was not able to get there.

Q. Why?

A. I was stopped about a block away by men—I don't know whether I would call them officers or some-

thing else, but they had circled around the whole place and I was not able to get past, the road was blocked.

Q. You say circled, what do you mean by circled?

A. I mean they had men stationed all around the block.

By Mr. Dufour:

Q. Do you mean a cordon?

A. Whatever you call it, both above and below the shooting, no one could pass the place or go in there.

By Mr. Higgins:

Q. Were these men who were stationed there regular policemen, police officers of the City of Bogalusa, or who were they?

A. There were so many it would be hard to name all of them, it was Bob Carson as we know him, a very stout fellow, he was stationed there, he was in command of those who were at the parts where he was, up in the street near the stores on the south side.

Q. Did he have anything in his hands?

A. No, sir.

Q. Do you know whether he had a gun or not?

A. I can't say.

326 Mr. Dufour:

That is clearly a leading question, if he had a gun in his hand.

A. (Witness continuing): I was informed I couldn't pass and I turned around and went away. I was in a Ford truck so really I didn't see but very little of them. There were a good many fellows there whose names I know, and I good many I don't know. There were so

many people brought in and put in that organization who were strangers.

Q. What organization?

A. The Loyalty League.

At this point a recess was taken until 2 P. M.

2 P. M. After recess.

By Mr. Higgins:

Q. You say you left Lem Williams place about 10:30, between 10 and 11 o'clock?

A. Yes, sir.

Q. At that time whom did you say were there?

A. Mr. Bouchillon, Mr. O'Rourke, and there were others there but I can't name them all. They were sitting around in the office.

Q. Did you know who they were?

A. I knew them then by being in and out every day, but I didn't pay any close attention.

Q. Do you recall now who any of them were?

327 A. I think Mr. Tom Ezell was there in the office, I am not positive, there was a bunch of us in and out, going in there off and on a good many times. I can't recall who was there but I am sure Mr. O'Rourke and Mr. Bouchillon were there.

Q. That is the place where the Union members congregate?

A. It was.

Q. You went again you say about 12 o'clock?

A Well. about 12 when I went, about 12:20 or 25 when I left there.

Q. Who was there then?

A. About the same bunch with the exception of Norman Simmons and Mr. Spears.

Q. Well now, where did you go? You went home you say?

A. Yes, sir, I went home.

Q. You walked or rode?

A. I rode a Ford truck, a half ton truck.

Q. Now then, you were coming back again?

A. Well, I went home to dinner and came back after the whistle blew.

Q. Came back in a Ford truck, or did you walk?

A. In a Ford truck.

Q. Anybody come back with you?

A. No, sir.

Q. You came back alone?

A. Yes, sir.

Q. Where did you stop your truck?

A. Well, right on—well, not exactly on the top of the hill, there is a little grade that runs down
328 from Mr. Dreyfous' store adjoining the laundry, I was going down this place when I stopped, half way down.

Q. The shooting was taking place then?

A. It had already taken place.

Q. Were you a member of the Union then?

A. I was.

Q. Are you still a member?

A. I am.

Q. And where have you been living?

A. Here in the city since then.

Q. What are you doing here?

A. Carpenter work.

By Mr. Higgins:

Q. Can you estimate how many there were in that crowd that you saw?

A. Well, I didn't get much opportunity but the street was pretty well crowded. There must have been

35 or 40 men on the outside. Of course, I couldn't see into the yard very well, where I was, owing to the fact the steam laundry is on that corner and blocked the view, the next building to Mr. Williams' place, there is a narrow street running between.

J. E. PIERCE, witness, being duly sworn and examined on behalf of plaintiff, testified as follows:

329 Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. J. E. Pierce.

Q. What is your address, Doctor?

A. Bogalusa.

Q. What is your business?

A. Physician.

Q. How long have you lived in Bogalusa?

A. Ever since Bogalusa was built.

Q. Do you know a man named Lem E. Williams?

A. Yes, sir; well.

Q. What was his general reputation in Bogalusa for peace and quiet?

A. Good so far as I know.

Cross Examination.

By Mr. Miller:

Q. Do you know Mr. Levert, one of the defendants in this case?

A. Yes, sir.

Mr. Higgins:

If your Honor please, I am going to object to any cross examination on anything except what was brought out on direct examination.

The Court:

I sustain the objection.

Mr. Dufour:

We can recall him for direct examination if we wish.

Mr. Higgins:

I withdraw the objection.

Mr. Dufour:

We will recall you doctor if we need you. In other words we don't care about introducing any evidence at this time.

330 ERNEST GARNER, witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. Ernest Garner.

Q. I want you to talk loud because the Jury has got to hear what you say and this gentleman has got to write it down what you are saying?

A. Yes, sir.

Q. Where do you live?

A. At present 8729 Forshey Street, New Orleans, La.

Q. Where were you living on November 22, 1919?

A. I don't remember the number of the house, but it was on Harper Street, in Bogalusa.

Q. We are investigating a shooting that took place at Lem Williams' house on that day. Tell us what you know about this affair?

A. I know that I seen the shooting and I seen quite a few fellows that I knew.

Q. Whom did you see that you knew there?

A. I saw Major Guerre, I saw Mr. Brumfield, I saw Mr. Courcey, I saw Mr. Le Blanc and I saw Mr. Carver, I believe they call him.

Q. Mr. who, what was that last name?

A. Well, I will tell you what he did, he ran a paving outfit, he paved all those sidewalks over there,
331 I think his name was—

By the Court:

Cowgill?

A. Yes, sir, I seen quite a few others, but I can't remember the names of them right now.

Q. Tell us what happened that you saw?

A. I saw a fellow shooting, I saw Mrs. Williams, and I saw Mr. O'Rourke and I saw Mr.—

Q. I can't hear you, talk louder?

A. I saw Mr. Gaines.

By Mr. Miller:

Q. What did you say about Mr. O'Rourke?

A. I saw him when he fell, he fell toward a barrel.

By Mr. Higgins:

Q. Do you know who shot him?

A. I couldn't identify the man, I don't know what his name is, but if he was in here I could identify him.

Q. Tell us what else you saw?

A. I saw Mr. Gaines when he got shot, I saw him put his hands on the window like this (witness illustrating.)

By the Court:

Q. Who?

A. Mr. Gaines.

By Mr. Higgins:

Q. Where was Mr. Gaines when you saw that?

A. He was coming out of the window it seems, he had gotten the window open.

332 Q. Which window?

A. It was the window of the side of the garage.

Q. In what building was it?

A. In the garage, Mr. Williams garage.

Q. Did you see any one fire at Mr. Gaines at that time?

A. I saw two people fire at the same time. I looked back and they were shooting right in the window. I saw his hands leave the window. I never saw where he fell but I saw his hands leave the window.

Q. Who was it that you saw at the time he was shot?

A. Dr. Brumfield and Frank Di Courci.

Q. Frank who?

A. Frank Di Couci.

Q. What side of the building were they on at the time you saw them?

A. They had a vacant lot there outside the garage and they were coming in the back like in this way (witness indicating) when I seen them shot.

Q. What kind of gun did they have?

A. I don't know what kind of gun, I couldn't see that far, because the crowd was coming on the banquette,

it looked as if all of them had pump guns to me. I can't say exactly what kind of a gun it was.

Q. Where was O'Rourke when he was shot?

A. Getting out of the window somewhere.

Q. What window was that?

333 A. On the opposite side.

Q. What building?

A. The same building, the pickets—the two buildings adjoin and they had a partition between them separating the two buildings. He got out of the window. I seen him as he got out of the window and seen him run back between—there was a fence—a space—about that wide (witness illustrating) he went through there and just as he got in there, there was a barrel there and that was where he fell when he got to the barrel.

Q. Did you see O'Rourke with a gun at the time he was fired upon?

A. No, I didn't see any one with a gun.

Q. Did you see anything in Gaines hands at the time you saw him come to the window?

A. No, I couldn't tell if he had anything in his hands or not.

Q. Did you go into the garage where Gaines went?

A. No, never did, they would not let me in. I tried to go in to see who was shot and who was killed and they wouldn't let me in.

Q. How many men would you estimate were in the crowd that you saw?

A. Must have been 150 or 200 I guess.

Q. How many were in the yard?

A. The whole bunch of them were in the

334 yard, there was no crowd around the house. I guess they were about an even number in the yard and on the lot and wherever I saw them.

Q. How many men would you estimate had guns?

A. Looked like every one had guns to me.

Q. In the position where you were standing were you able to see the office door of the office of Lem Williams?

A. I could see the office there—inside of the office is the window, I can't see through the door.

Q. Did you or did you not see Lem Williams when he went to the door?

A. No, sir, I did not; I saw Mrs. Williams but I didn't see Mr. Williams.

Q. Where was Mr. Guerre when you saw him?

A. I saw him when he got of his machine. I saw him when he came out. I didn't see him fire.

Q. Did he have a gun?

A. Yes, he had a gun.

Q. What kind?

A. It looked as if it were a pump gun.

Cross Examination.

By Mr. Dufour:

Q. How old are you?

A. Twenty.

Q. How many years ago was this instance, six years?

A. Yes, sir.

335 Q. You were fourteen years old?

A. Fourteen years old.

Q. What day of the week did this happen?

A. I don't remember.

Q. Did you go to school at that time?

A. Yes, sir.

Q. Were you at school?

A. No, I was not.

Q. You hadn't gone to school that day?

A. I hadn't gone to school for a week I had been sick.

Q. Where were you standing when these men came up?

A. I told you just how I went, I was standing at the fire station Major Guerre came out in his machine.

Q. Where is the fire station?

A. It is a little over a block where the shooting took place. As soon as he came by I saw him turn to the right. The place where the shooting took place was towards the right of the fire station, and I seen him come back down the street. I went behind the engine and got to the scene of the place at the time his machine did.

Q. Which way did you go into the lot?

A. I never went into the lot, I was standing where the machines were parked. On the other side of the street.

Q. How far from the office?

336 A. Well, I don't remember. It was across the road. I guess it was about fifty yards about the end of the road.

Q. So you were about two hundred feet away?

A. About that far.

Q. Now you saw O'Rourke getting out of the window?

A. I saw him as he got out. I didn't see him as he was getting out. I saw his hands leaving the window.

Q. And that is where he was shot?

A. I don't know where he was shot. There was a barrel there, the alley, as you come of the left end of it. There is a barrel and that is where he fell.

Q. Now you said you saw the man who shot him didn't you?

A. Must have been, the only way I seen him fall I don't guess he could have fallen any other way.

Q. You said you didn't know where he was shot, and you said Dr. Brumfield and Mr. DiCourci shot him?

A. No, he shot Gaines.

Q. I beg your pardon I didn't mean to—now you were standing in that same position when you saw Gaines?

A. No.

Q. Where were you?

337 A. I was further down to the right as the shooting began, I was afraid the firing would open the other way. I was standing right in the middle of the crowd, I figured—

Q. In the middle of the crowd where?

A. To the left where the yard was, and I went to the right, and as I got right to the telephone pole, as I got to the telephone pole that is when I saw Gaines get out of the window.

Q. Now let's get this thing straight I understand you didn't enter the lot?

A. I did not.

Q. You stayed on the other side of the street, about two hundred feet from the office?

A. Yes, that is where I first stopped.

Q. You first stopped there. Now where did you go from there?

A. Right down the road to—you know how far a telephone pole is at all events.

Q. Did you know how far it is?

A. Well, I don't know. Just the distance one of those telephone poles is apart from one another, that is just how far I was.

Q. Now is that fifty feet?

A. I don't know how far it is. It is about—

Q. Is that where you saw Gaines?

A. That is the time I saw Gaines starting out of the window when I saw his hands leaving the
338 window.

Q. He was right in front of you?

A. No, he was on kind of a side glance like that (witness indicating).

Q. What do you mean by a side glance?

A. Glance to the side of me, to the left.

Q. Where was that window?

A. Right about the middle of the garage.

Q. Facing which way?

A. Facing, I guess you might call it the south.

Q. And facing in the opposite direction to the window that O'Rourke got out of?

A. Yes, sir.

Q. (Counsel exhibiting map to witness): Now here is the gate opening on the Columbia Road going into the yard?

A. Yes.

Q. This which is marked Columbia Road is Columbia Road?

A. Yes, I understand.

Q. Now show me the window out of which you saw O'Rourke come out of?

A. Alright. Here is the window that O'Rourke came out of.

Q. That is the window that O'Rourke came out of. Now wait a minute, where were you standing?

A. I was standing out here (witness indicating).

Mr. Miller:

Hold it up so the jury can see.

339 Mr. Dufour:

Right about here at this point (counsel indicating).

Q. Now where was the window out of which you saw Gaines?

A. Right here (witness indicating).

Q. Now where were you standing when you saw him?

A. At the next telephone pole along over here, from a side glance.

Q. You could see from this point across from that window with this building in between?

A. Let me show you, here is the garage, here is the window, he was coming on a side glance something like this, and here is the way I seen him. Alright, I seen him as he went out of the alley. In other words he was kind of angling me. There is the telephone pole along there and one here, and I was standing right along side of the telephone pole.

Q. Well now, could you from this point see that window?

A. You can put me out there and see if I can.

Q. I am asking you if you think from that point you could see that window?

A. Sure I could see it.

Q. You don't think that building would obstruct your view?

A. No, that building didn't obstruct the view on the angle I was standing from the post. I was standing here and it was towards—

Q. You don't think if those measurements
340 are correct you would not be two blocks away?

A. Yes, the measurements may be correct, but I want to tell you the road makes a bend here, the

road comes straight, the county road comes straight and there is one road that comes up—

By Mr. Higgins:

Q. Take your time son?

A. There is one road that turns off from Columbia Road.

By Mr. Dufour:

Q. That is a very slight turn isn't it?

A. No, it is not such a slight turn.

Q. It has been testified that it is a very slight angle?

A. No, the county road, Columbia Road. Alright, now right about fifty feet from where the road turns there is a telephone pole and that is where I was standing, right by the telephone pole.

Q. How far was that, six hundred and fifty feet?

A. I don't know, I do not remember how far it was from the telephone pole.

Q. Do you recall how far you had gone when you could see the window, how far from your original position had you gone?

A. Well, I don't exactly know how far it is, just the distance frrom one telephone pole to another. I judge it would be about one hundred yards I guess.

Q. One hundred yards?

341 A. Why sure, there is the oaks here— wait— this is right across from the garage, from the gate of the garage over there. There is a big two story building there. Alright. Those oaks in front of there I started to get amongst those oaks— let me see before going on. I was right at the corner of this his house here that is when I saw O'Rourke going. Now wait. There was a little garage where Mr. Dreyfous used to park his auto and I was looking right between the automo-

bile garage and across right down this way and I seen him come out that alley to where that fence runs, that is where I seen him fall and couldn't see him anymore. No, sir, I couldn't see him anymore. It looked like everybody was shooting and I figured I didn't want to get killed so I ran back this way and when I got there, there was a bunch over here, I don't know what they were doing but I wasn't going to run right up there, because they were crowded up in front of the laundry and that place where you come in, that is where they went.

Q. So you came down?

A. So I ran down as far as I could this way and stopped right at that telephone pole. It gave me a glance to this window that is when I seen Tom Gaines.

342 Q. How do you know it was Tom Gaines?

A. Why it was the man that was killed but didn't know who he was at first.

Q. How do you know Tom Gaines was killed?

A. I guess must have seen or been told it was Tom Gaines.

Q. Oh, somebody told you it was Tom Gaines?

A. I guess so.

Q. Well you didn't see Tom Gaines?

A. I seen the man who was supposed to be Tom Gaines trying to get out of that window.

Q. Who told you it was supposed to be Tom Gaines?

A. I guess some of the people told me it was Tom Gaines.

Q. Told you what?

A. Told me that the man behind that window was Tom Gaines.

Q. Was that the man you saw at the window?

A. It looked to be the same man I never even seen his face. I couldn't tell the man seventy-five or eighty yards off. I never seen the man.

Q. That is just what I am getting at. Did you see him at all getting out of the window and were you in a position to have seen him?

A. Sure.

Q. So you told us you think you ran how many feet?

A. I don't know how many just a distance from one telephone pole to another.

Q. And you think that it is as far from
343 where you were standing to the end of the room?

A. Further than that.

Q. How much?

A. I don't know how much, just about two poles apart.

Q. You think that is 150 feet?

A. I don't know that it is.

Q. Where was the man standing that shot Gaines?

A. He was standing just about twenty five feet from the window when I seen him.

Q. How many of them were there?

A. I don't know how many men were standing, I saw those two, they were up from the crowd. They were in the back of the crowd. Seemed to be just entering the place when they fired.

Q. On, they were shooting from the back of the crowd?

A. They were shooting right from the side of the window, they seemed to have entered from the back.

Q. How many men were there you don't know?

A. I don't know how many men were there, I didn't count them.

Q. How many did you see when you say somebody shot Tom Gaines?

A. I seen the whole crowd by that time.

Q. Was there a crowd on that side of the house?
A. There was a crowd all over by that time.
Q. And these men shot from the back?
344 A. I don't know whether they did or not, I was right outside the window.
Q. Where were you when they did that?
A. Standing right in the middle of the vacant lot.
Q. Who was there with you?
A. I don't know whether there was any one there.
Q. Where is the vacant lot?
A. It is right outside Mrs. Williams' house.
Q.. Let us get the map and show us where the vacant lot is?
(Map handed to witness.)
A. Here is the vacant lot right out side the house.
Q. That vacant lot you mean was over here?
A. The vacant lot is the one next to it, right here is another little house about on the same order of Mrs. Williams— down between those two houses. Right here is another little house right here further toward the front, right near the banquette.
Q. In this lot?
A. Yes, not in this lot, but in this lot. (Witness indicating.)
Q. The adjoining lot?
A. Yes.
Q. Where were you standing?
A. I was standing right here.
Q. Just so that you could see around the corner and see that window?
A. I could see the window.
345 Q. And where was Dr. Brumfield and Mr. De Courci standing?
A. Standing right along here.

Q. 200 feet away from you?

A. I don't know how far, just from the front, from across the street, the vacant lot, that is how far they were.

Q. And who else were standing there?

A. I don't know who they were, there was such a crowd.

Q. How did you pick them out?

A. I know them, that is why, I know them personally.

Q. In all of that crowd you say they are the ones that did the shooting?

A. Yes, sir, if you know a man that you see always, when you see him in a crowd you know him don't you?

Q. Sure?

A. Well, he was there.

Q. And you know they did the shooting?

A. They did the shooting.

Q. Well, how do you know?

A. I seen them fire and I seen his hands leave the window— his arms fall back.

Q. Don't people sometimes fire and miss what they fire at?

A. Every time you see a man fire at a man twenty feet off and he falls, you know that he has not missed him.

Q. Wasn't somebody else shooting?

A. Why sure, everybody was shooting.

Q. So they were not the only two that shot then?

346

A. Why no, lots of men shot.

Q. There were a lot of people shooting at Tom Gaines?

A. I don't say a lot of people shot at Tom Gaines.

Q. How many did you see shooting at Tom Gaines?

A. I seen those two, the rest of them were running the other way and firing on the office.

Q. They were the only two men that fired?

A. No, they weren't the only two men that fired, they were the only two that I seen shooting in that window.

Q. Did the others have guns?

A. Everybody had guns.

Q. What were they doing with the guns?

A. I guess they wanted to kill those men.

Q. That is your idea, they went there to kill those men. Did you see any killing by anyone outside of those two?

A. No, I didn't. I seen this fellow shoot O'Rourke.

Q. You saw nobody else in that crowd shoot?

A. I could see them firing, but I couldn't identify them.

Q. Then you did see somebody fire outside of Dr. Brumfield and Mr. De Courci?

A. Yes, sir.

Q. Fire at Gaines?

A. No, sir, I didn't see them fire at Gaines, I only saw those two men fire at Gaines. Whenever you see a man walk up and put his hands in the window like that and somebody shoots at him and he falls,

347 can you say somebody else shot him?

Q. Yes, but when you see a man from an angle at which you were there at a little window 200 feet away on that angle, why we don't know how you could see all that, that is what I want to know?

A. If you bring your eye to bear on that window and you can't see it I will let you kill me right there.

Q. You can see from there?

A. Yes, and if you can't you had better have your eyes examined.

Cross Examination:

By Mr. Talley:

Q. Mr. Garner, kindly look at this map and tell us where Gaines was killed?

A. He was killed right here in this window.

.Q In that window?

A. Yes, sir.

Q. Inside or outside?

A. Inside.

Q. You are sure of that?

A. I am sure he was. If he fell on the inside, I don't think he could have been out of the window.

Q. Just answer the question. He was killed on the inside and you saw him on the inside?

A. Yes, I saw him on the inside— Wait now, don't get me wrong. I saw his hands, I saw his hands come up.

Q. You saw his hands come up?

A. Come up and leave the window and—

348 Q. All inside of the garage?

A. On the inside, yes, sir.

Q. I say you saw his hands on the inside of the garage?

A. Yes, sir.

Q. Here (Counsel indicates on map to witness) at which window, front or back?

A. This one. (Witness indicating).

Q. The front one. I see, and you were standing across Columbia Road straight down here?

A. Yes.

Q. Then you were—

A. I—

Q. Wait a minute. Answer the question. You saw this fellow. Now you say there was a house on this lot here at the end?

A. Sure.

Q. Now you say you were in the middle of this?

A. No, I was not in the middle of that.

Q. Where were you?

A. Wait, I will tell you. You know where Cefalu's house is. Very well, there is a telephone pole right across the street here.

Q. Was it in front of Cefalu or nearer the Colorado Road grades?

A. No, it was further.

Q. Here is a laundry, you say you were about in front of Cefalu?

A. Nearly in front.

Q. Then your line of vision was about in this corner, is that right?

349 A. (No answer.)

Q. Then you must have been at the corner of this house so you could see right through this wall?

A. No, I didn't see through the wall, I saw through the window.

Q. You didn't see through the wall, you just saw through the window?

A. Yes, through the window.

Q. But you didn't have to see through that wall you say?

A. No, I didn't.

Q. Now, you left the fire station, that was about a quarter of a mile from this scene wasn't it, two blocks and a half?

A. A block and a half.

Q. Alright. Which way did you come, did you follow Major Guerre?

A. I didn't run behind his machine, no.

Q. Did you walk?

A. I didn't walk around.

Q. Was he going slow or fast?

A. He wasn't speeding.

Q. Going about fifteen miles an hour?

A. Must have been. About the time he got his car parked and left the machine there is when I ran up.

Q. How many cars were out in front?

A. Must have been about 75.

Q. 75 cars in front and you were across the street?

A. I was across the street and—

Q. And you saw through those cars?

A. Wait a minute, let me tell you something, those cars were not all parked in front of the place.

Q. Oh, they were not?

A. No, sir, they were parked down toward a negro joint toward the right.

Q. Did you see that great big truck there in front?

A. No.

Q. Was there a city truck in front?

A. I didn't see it, no, sir.

Q. Wasn't there a city truck right in front?

A. There were a lot of machines there.

Q. Did you see this boat in there, a great big gasoline launch?

A. Yes, sir.

Q. Did you see through that when you saw all this?

A. I didn't have to see through it.

Q. Well then, how did you see?

A. I saw between the space in the garage and the house.

Q. You saw then just on the side of the boat or next to the house?

A. I looked to the garage, I am talking about Mr. Dreyfous' garage where he had his automobile.

Q. Now where was the gasoline launch?

A. The gasoline launch was down about the garage.

Q. Was it close to Crane's hotel or not?

A. The garage was closer.

Q. The garage was closer?

A. Yes, sir, it was closer to the fence.

351 Q. Now, you were across the street when you saw O'Rourke?

A. Yes, sir.

Q. Then you say there were no cars parked right here to obstruct your view?

A. Why sure there were automobiles parked there but I didn't say they were piled up there.

Q. Oh, I see. How old were you then?

A. Fourteen.

Q. And you were across the street?

A. Yes, sir.

Q. And were you on a barrel or a block or something?

A. No, I was on my own feet.

Q. You were on your own feet, were you on the ground?

A. I think so, I was on the ground.

Q. Have you grown much since then?

A. I don't know, I guess I have.

Q. And there were some cars in front of you, were there not?

A. Why sure.

Q. But nevertheless you could see through or over those cars and see O'Rourke at that little window back here and Gaines?

A. Yes.

Q. Did you see through the cars or over them?

A. I seen right between them.

Q. Oh, between them. Well, now I believe you stated there were 200 men, did you see through the men, or over the men?

A. I could see through their bodies, the men were not all piled up by the fence, they came in the yard and they got to the left of where the man was
352 and this man that shot him he was standing away from the— in other words, he had ten or fifteen feet of space to shoot this man from the back of the garage.

Q. I will try to make this clear. You were standing across the street down here and even though the cars were parked immediately in front of you, at Lem Williams' gate, you were over or above those cars and could see O'Rourke as he got out of the window?

A. I could see O'Rourke as he got shot, I seen him before he got through the window, not as he was getting out of the window. I seen him as he got shot, and I seen him when he came over the barrel.

Q. After Major Guerre got there?

A. After Major Guerre got there.

Q. Now, after O'Rourke had gotten shot—

A. That is what scared me, I ran.

Q. After O'Rourke had gotten shot you say you ran the distance down here in front of Cefalu?

Q. Now, after O'Rourke had gotten shot you say you ran the distance down here in front of Cefalu?

A. Yes, sir.

Q. After O'Rourke had gotten shot and you had seen him fall over the barrel and you got frightened then you could see Gaines when he got shot?

A. That is the first thing I noticed. I was running and all excited when I got there and I couldn't
353 go any further without I wanted to get killed or knocked down or beat up, I didn't know what.

Q. You didn't see any of those things that transpired immediately afterwards, you saw these things away down there when O'Rourke got out of the window, and then several minutes later you saw Gaines through the wall?

A. It wasn't several minutes, it was all over in five minutes, I guess.

Q. I know—

A. I was standing just there and so I know it took me just the time to run from one telephone pole to another; that is the difference in the time.

By Mr. Higgins:

Q. Will you kindly explain what you had to say with reference to the direction of the road that meets Columbia Road?

A. Alright. Here is Columbia Road running here. Here is where Cefalu's house is. Alright. He has a store right on the corner. Off the corner this street turns off from Columbia Road and runs to the right, right to the side of the fire station. Alright. On the corner from Columbia Road there is another street turning back this way opposite from Columbia Road.

Q. Which one of those streets were you on?

354 A. Right on Columbia Street, right where this road turns off. In other words I was kind of like from here to this corner over to that. (Witness indicating).

Q. Was there anything between the position that you occupied on or near Columbia Road and this laundry on the side of the garage close to the Williams' residence to obstruct your view?

A. Nothing to obstruct the view.

Q. You had a clear view?

A. I had a clear view, that is how I come to run, I was running. I seen this man put his hands on the

window and seen his hands leaving the window as he got shot.

Q. Do you know if they found anybody else in the garage besides Tom Gaines?

A. No.

FRANK GARNER, witness, being duly sworn and examined on behalf of plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name, son?

A. Frank Garner.

Q. Are you related to Ernest Garner?

A. Yes, sir.

Q. What is the relation?

A. Brother.

355 Q. Where do you live now?

A. 8927 Forshey.

Q. City of New Orleans?

A. Yes, sir.

Q. Where were you living November 22, 1919?

A. Living in Bogalusa.

Q. We are now investigating the shooting that took place at Lem Williams' garage over there on November 22, 1919. Will you please tell us what you know about it?

A. Well, when I heard the fire whistle blow I thought it was a fire and I ran out on the front street to see if the fire truck were running and a bunch of us boys have a habit of looking for the fire truck and when I didn't see the truck I walked by the fire station and I saw a couple of boys sitting about, and I went

and spoke with them for a few minutes and I saw Mr. Sherman come along in a Chev. car with two men in there and he stopped in front of the fire station and they talked there for about five minutes and Chief Pittman was out there talking to them and when I looked up the road there I saw about four or five cars coming down the road with some men in them. Mr. Guerre was in the car and Mr. Thomas, Mr. Rau and Mr. Le-
Blanc, a bunch of men in there and when they
356 finished talking to Mr. Pittman—he went back in the fire department I heard a few firemen run out on the back platform where they try the hose and one of the men says to the other—

Q. Don't say what he said?

A. I saw those men coming down so I went on down there and when I got down there I walked to some of the cars that were parked and the men were inside then, so I saw Mr. Macgee shoot Mr. Lem Williams with his hands propped up on the door like (witness indicating). He walked up and shot him with his hands propped up on the door, that is what he done and then the whole lot turned loose to shooting.

Q. You say you saw Mr. Lem Williams when he came to the door?

A. When he came to the door.

Q. Did he have anything in his hands?

A. No, sir.

Q. Who shot him?

A. Mr. Macgee.

Q. Now what other men did you recognize there?

A. I saw Mr. LeBlanc, Mr. Guerre, Mr. Thomas and Mr. Townsend and I saw Mr. Brady, I saw Macgee and I saw Mr. Whittington and I saw—let me see—I know his name too—Mr. Lawrie.

Q. Will you look around the Court room and see if there is anybody you saw there that day?

357 A. Mr. Guerre, I saw him (witness pointing).

Q. Did you see any others?

A. (No answer.)

Q. Now where were you standing at the time you saw—?

A. I was standing right out in front of the big gate there.

Q. Could you see the office door of Mr. Williams' office from the gate?

A. Yes, sir.

Q. What kind of a gun did Macgee have?

A. It looked to me like a pump gun.

Q. Now how old were you at that time?

A. Twelve years.

Q. Did you or did you not see J. D. Lindsley, H. H. Wilcox, David Bienn, or Louis Levert there?

Mr. Talley:

If the Court please I object to the leading form of the question.

The Court:

Let him read the list and ask if each of them were there.

By Mr. Higgins:

Q. Did you or did you not see J. B. Lindsley, H. H Wilcox, David Bienn, or Louis Levert there?

A. No, sir, I didn't see them.

Cross Examination.

358 By Mr. Miller:

Q. You say you saw Major Guerre come up in a car?

A. Yes, sir.

Q. Did he get there before you, or were you there first?

A. I got there before he did.

Q. Didn't you say a little while ago you saw him come up in the car when you were at the fire station?

A. No, sir, I told you I saw him come out of the road about four blocks before that.

Q. You saw him four blocks away?

A. Yes, sir, four blocks away.

Q. You could tell him in the car four blocks away.

A. No, sir, but when he came up in the car I saw him.

Q. How long did you get there before he got there?

A. About three minutes.

Q. How far were you from the place?

A. About a block and a half maybe two blocks.

Q. And you got there in about three minutes walking?

A. No, I ran.

Q. Running, before he got there in the car.

A. Yes.

Q. You saw him when he got there.

A. Yes, sir.

Q. Well, was the shooting going on when you got there or had not started?

A. Had not started.

Q. Had not started so you had a chance to look at him then?

359 A. I had a chance to look at all of them.

Q. So if the shooting had been going on you probably would have not paid any attention to Major Guerre going up there?

A. When I saw the car come up there—before the cars got there I had time to get there when all of the bunch got there Mr. Macgee walked in. He was leading the gang and when he got there he asked for Mr. Williams and Mr. Williams came to the door and he shot him and the Strong Arm bunch turned loose.

Q. Mr. Williams came to the door and put his hands out on the side of the door?

A. Yes, sir.

Q. Who told you to say he put his hands on the side of the door?

A. Nobody, I saw him put his hands up.

Q. Which hand was it?

A. His left hand.

Q. Which hand was it?

A. His left hand.

Q. And where were you standing at that time?

A. I was standing in front of the big gate.

Q. On the side walk?

A. No, sir, about two feet from the side walk.

Q. Did you see your brother there at that time?

A. No, sir. I didn't see my brother.

Q. Your brother was across the street and you were on the same side that Williams' house was?

360 A. I don't know where my brother was.

Q. Well, you were on the side where Williams' house was, is that right, right in front of the gate?

A. No, sir, I was on the opposite side of the street.

Q. On the opposite of the street?

A. You know they had a wooden plank, a paving plank in front of Mr. Williams' house and I was on the wooden plank where the wood was, where they had the walk, the plank walk.

Q. Was that toward the other side of the street?

A. I know one thing the street runs that way and I was on that side of the street in front of the big gate.

Q. Were you on the same side of the street that Williams' house was and Cranes' hotel was?

A. No, sir, I was not on the same side of the street, I was on the other side of the street.

Q. The opposite side of the street?

A. Yes.

Q. Right opposite the gate?

A. Right in front of it.

Q. You didn't see your brother at all?

A. No, sir, I didn't see my brother.

Q. Did you see your brother when he ran from where he was—?

A. Oh, yes, I saw him leaving there, he left before I did.

Q. Were there any cars in front of Williams' gate in front of his lot?

A. Sure there was in front of his gate.

361 Q. Were the cars parked on the other side of the street?

A. No, on the other side of the street but they were parked in front.

Q. Was there the garbage truck in front of there?

A. No, sir, in front of the little garage where Mr. Dreyfous had his little garage.

Q. The cars were parked on both sides of the street?

A. The cars were parked on both sides of the street.

Q. And didn't that obstruct your view at all?

A. No, sir, the men couldn't have gotten in that place if there had been cars in front of the gate.

Q. So you were there when the men commenced to walk into the gate, were you?

A. Yes, sir.

Q. How many were there about, who went in there?

A. About fifty, maybe more.

Q. And you say you saw Mr. Townsend?

A. Yes.

Q. What Townsend is that?

A. I don't know, he worked in the Great Southern Lumber Company's office.

Q. George Townsend the sales agent?

A. Yes, sir.

Q. You know him?

A. Yes, sir.

Q. Did he have a gun?

362 A. Yes, sir.

Q. Do you know who he was with, if anybody?

A. He was with Mr. Guerre and Frank Royal, he was with Mr. Guerre, Royal and Mr. Thomas and—. Let me see—some other men—I don't know who.

Q. Mr. Faust?

A. Who?

Q. Do you remember the name of the man who was with Mr. Thomas and Major Guerre?

A. Mr. Royal.

Q. Royal, Frank R. Thomas and who else?

A. And Mr. Thomas.

Q. I mentioned Mr. Thomas, let me see if I have got you right. He was with Mr. Thomas and Mr. Townsend and Royal, is that right?

A. Yes.

Q. Did they all get out of the automobile together?

A. Yes, sir, all of them.

Q. Do you know whether the rest of them had guns besides Mr. Townsend?

A. Yes, sir, all of them.

Q. They all had guns?

A. Yes, sir.

Q. How long after they got there before the shooting began?

363 A. Just as soon as the gang got there, that was at about the same time. It all occurred at about the same time.

Q. You say just as soon as the gang got there, that don't give us any idea. How long after Major Guerre and his men got there did the shooting begin?

A. As soon as they got out of the car Mr. Macgee and some more of the men went inside there and started to shoot and the other men went into the lot and surrounded the place.

Q. Did Major Guerre and the men with him go in the lot too?

A. Yes, he was with the bunch that went into Mr. Williams' yard.

Q. I am talking about the lot that went in with Major Guerre, Mr. Townsend, and Mr. Royal?

A. Yes, sir.

Q. Were they directly in front when the shooting happened?

A. They were down by the fence.

Q. Now you and your brother were witness in the Dacus' case, tried here a few weeks ago?

A. Yes, sir.

Q. And you both testified as to what happened on the night before this occurrence?

A. Yes, sir.

Q. You didn't say anything in that case
364 about what happened this date did you?
A. No, sir.

Cross Examination.

By Mr. Talley:

Q. Mr. Garner, I believe you started your little story from the fire station?

A. Yes, sir.

Q. And then you said that your brother ran first down to this place, is that correct?

A. Yes, sir, with some more boys down there.

Q. And then after that he left you?

A. I saw the men coming with the automobile. He was there with me and saw the men coming.

Q. He was there with you before Major Guerre got as far as this fire station?

A. Yes.

Q. And then he went ahead of you down to the place and then you didn't wait for Major Guerre to come down either, did you?

A. No, sir.

Q. Oh, I see. Then you got to the place I believe you said about three minutes before Major Guerre got there?

A. Yes, sir.

Q. Why did you run down there?

A. I saw my brother coming down there
365 and some more boys.

Q. I see your brother got there ahead of you?

A. Yes, sir.

Q. And you got there a few minutes ahead of Major Guerre?

A. Yes, sir.

Q. Now is that right?

A. Yes, sir.

Q. Alright. Now you stopped across the street in the gate of Lem Williams' yard?

A. No, sir.

Q. Where did your brother stop?

A. I don't know where my brother stopped.

Q. Were you the only fellow on that side of the street on the plank walk?

A. I was with myself, I don't know, they may have been others to, I didn't notice.

Q. I see. Was your brother anywhere immediately around you?

A. Didn't see him.

Q. Didn't see your brother on that side of the street?

A. (No answer.)

Q. Now was there anybody else on that side?

A. I don't know.

Q. Do you remember whether anybody was there or not?

A. I don't know.

Q. If anybody had been around you would remember it?

A. No, sir, I was excited a little.

366 Q. A little excited, I see now how many men were there?

A. I didn't count them.

Q. Were there as many as fifty?

A. A little more than fifty.

Q. Then was there as many as one hundred?

A. There was more than a hundred I guess.

Q. Oh, more than a hundred you guess. Did you see a great big truck on the street, a garbage truck right immediately in front of the gate?

A. No, sir; on the garbage truck was—the garage where Mr. Dreyfous put his car in—he had a little garage built on the right hand side of his lot next to the hotel, where Mr. Dreyfous had his car and that is where the garbage truck was inside in between that garage and the hotel.

Q. That is where the big car was?

A. Yes, that is where the big car was, the truck.

Q. How many cars were down there?

A. I didn't count them.

Q. Were there as many as twenty-five?

A. Yes, a little more maybe, twenty-five or a little more.

Q. People couldn't pass in the street could they?

A. Not as I know of.

Q. Is the side walk over on the side where
367 you were high off the ground?

A. About that high off the ground (witness ness indicating).

Q. About six inches?

A. Yes, sir.

Q. How old were you then?

A. Twelve years old.

Q. Now you say you could see through Lem Williams' door. Did he get out of the door?

A. No, sir, he didn't get out of the door.

Q. He didn't get out of the door?

A. No, sir.

Q. This is the door you spoke of (counsel indicating)?

A. Yes, sir.

Q. And he didn't come out of the door?

A. No, sir, he got as far as the door and stopped there.

Q. Did you see him as he came to the door?
A. Yes, sir.
Q. Is that correct.
A. Yes.
Q. You saw him as he come to the door?
A. Yes.
Q. Are you sure of that?
A. Yes, sir.
Q. I want you to be sure—

Objections: Mr. Higgins:
If your Honor please, the witness answered already, you can say sure, sure, sure and yes, yes, yes
368 continually.

By Mr. Talley:
Q. You were standing now across the street down. here (counsel indicating)?
A. Yes, sir.
Q. And there was a whole lot of cars in the street?
A. Yes, sir.
Q. And a whole lot of men there too?
A. Yes, sir.
Q. And you were twelve years old?
A. Yes, sir, twelve years old.
Q. Standing six inches from the ground?
A. I wasn't standing on a six inch side walk, I was off the side walk two feet or more.
Q. Oh, yes, let's see, let's see I beg your pardon, two feet off the side walk?
A. Or maybe more.
Q. Were you closer up to the men of the cars?
A. I was right ahead of the cars.
Q. Right ahead of the car. I see, and there were a whole lot of men in here?
A. Yes, sir.

Q. And you could see through the cars and see through these men and see through a wall when Lem Williams got to the door?

A. I told you the cars—it was up in front
369 —I told you I could see through the gate of the office door and saw him in the office.

Q. Saw him when he got up and went to the door?

A. I didn't say I saw him get up, I saw him at the door.

Q. Didn't you just tell us you saw him when we went to the door?

A. When he got to the door.

MRS. BESSIE BURKETT, witness, being duly sworn and examined on behalf of plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. Mrs. Bessie Burkett.

Q. Mrs. Burkett where did you live on November 22, 1919?

A. Bogalusa.

Q. Did you have occasion to visit the residence or place of business of Lem Williams?

A. Well I went down there when all of the excitement happened and the killing of Mr. Williams, I went down there that afternoon, the day he was killed.

Q. Did you go inside the yard?

A. I did.

Q. What did you see?
370 A. I seen three dead men.

Q. Did you see the body of Tom Gaines?

A. I did.

Q. Where was his body?
A. In the garage.
Q. In which end of the garage did you see the body?
A. At the front entrance, right between—it was right by the work bench.
Q. Is there a window with glass or not?
A. There was.
Q. What did you see on the work bench?
A. Blood.
Q. What did you see on the window?
A. Well there seemed to be—this window was shattered and looked like there was a hole through the window.
Q. Did Gaines have anything in his hand at the time you saw him?
A. He had, he had a wrench.
Q. Did you see any fire-arms or guns?
A. I did not.

Cross Examination.

By Mr. Dufour:
Q. I show you what is supposed to be a drawing of the garage and the office and this place where I point is the entrance of the garage. Where did you
371 say his body was.

(Counsel hands witness drawing and witness examined same.)

A. Right in here (witness indicating) and there was blood here.
Q. How far was his body from the window?
A. I can't say just exactly how far because I didn't measure it.

Q. It would appear that from the door to the window it is about fifteen or twenty feet. Do I understand you correctly to say that when you went there his body was lying in the entrance?

A. You do not.

Q. It was lying in the entrance?

A. It was here (witness indicating). It was here as you went to the door to your right going down in the garage.

Q. You went into the garage?

A. I went into the garage.

Q. And went to the right?

A. It was right in here, right by this window, there was a work bench there and I came right in there and he was right in here (witness indicating).

Q. In between the entrance and the window?

A. Yes.

Q. About mid-way between?

A. Well I can't say whether it was just
372 mid-way, but it was in there.

Q. Was any of the officers in charge of that?

A. There was one that I seen.

Q. Who was that?

A. Charlie Flournoy.

Q. Did you speak to him?

A. I did not.

Q. Were the premises open for inspection at that time?

A. No.

Q. Were people allowed to go in and out?

A. No.

Q. Were they prohibited from going in and out?

A. They were, that is why he was there.

Q. How did you happen to get in.

A. I went down to see Mrs. Williams.

Q. And then what happened?

A. Well, I went down about here (witness indicating) she called for us to come down there so I went in.

Q. Went in where?

A. Went into the house, also went into the garage and into the office.

Q. And notwithstanding the fact that the officers were in charge, nobody challenged or prohibited you from going in?

A. He did not.

Q. You just walked right on in?

A. I did.

Q. Mr. Flournoy is one of the regular police officers of the city, isn't he?

373 A. I think so, he was at that time.

Q. And he was the only one you saw in charge of the premises?

A. The only one.

Cross Examination.

By Mr. Talley:

Just one or two questions Mrs. Burkett, this work bench that you speak of being in the garage, was it at the extreme right as you went in where you found Mr. Gaines?

A. He wasn't on the work bench, he was on the floor.

Q. I am speaking about the work bench, where was the bench?

A. It was right under the window, one under the window—one coming out from the window.

Q. I am curious to know which window the work bench was opposite. Turn that around a little (Counsel referring to map).

A. He was at this window (witness indicating).

Q. Are you sure of that?

A. I am.

Q. How wide was that work bench? Show something to indicate?

A. It looked like it was as wide as that table, perhaps a little bit wider.

Q. Which table?

A. This one (witness pointing to stenographer's table).

Q. Now, how far did this work bench extend down this way?

A. Well, I didn't look, I couldn't say just how far it would reach because I didn't look.

374 Re-Direct Examination.

By Mr. Higgins:

Q. You say you went into the office also?

A. I went into the office.

Q. What did you see in the office?

A. I seen Mr. Williams lying on the floor dead and I saw the other man, Mr. Bouchillon, I believe his name is.

Q. Where did you see Williams' body?

A. Lying just like he had walked to the door and was lying right backward with his feet to the door, the front door.

Q. And where did you see the body of Bouchillon?

A. Lying over on the other side close to that window, the front window fronting toward the street.

Q. Did you see any arms in the office, fire arms or ammunition?

A. I did not, not a one.

Q. Did you see any other men around there at the time you were there?

A. Not then I didn't see—you mean—any men inside? No, no men except this officer.
Q. How long after the shooting did you get there?
A. That must have been about an hour.

375 By Mr. Dufour:
Q. That was about two o'clock in the afternoon, was it?
A. When the man was killed?
Q. No, that you got there?
A. About that time.
Q. Are you related to Mrs. Williams?
A. No.
Q. A friend of hers?
A. Well, I knew her when we lived in Bogalusa.
Q. She sent for you on this occasion?
A. She certainly did.
Q. You were served with a subpoena to come to Court were you not?
A. Yes, sir.

MRS. C. W. HAMMOND, witness, being duly sworn, and examined on behalf of Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:
Q. What is your name?
A. Mrs. C. W. Hammond.
Q. Mrs. Hammond, the statement you are about to give is going to be written down and we want the Jury to hear, so kindly talk loud? Where were you living on November 22, 1919?
A. Bogalusa.

Q. You will have to talk louder than that. How far did you live from the residence and home of Lem Williams?

376 A. Right back of him, just the alley.

Q. Did you have occasion to visit Lem Williams' home that day?

A. Well, I ran over there during the excitement but I didn't go there before the killing.

Q. Well, how did you come to go over there?

A. I really don't know, I heard the noise and the shooting. I heard the noise and I really didn't know what was the matter and I just ran over there to see what the trouble was.

Q. Did you go into the yard?

A. Yes, sir.

Q. Did you go into the office?

A. Yes.

Q. Did you go into the garage?

A. Yes, sir.

Q. Now tell us what you saw in the yard?

A. Well, I don't remember seeing anything in the yard only the men all around, a great crowd of men there and they all had guns and there seemed to be a lot of confusion.

Q. How long after the shooting did you get there?

A. Well, I really don't know, three were a lot of men going out the front gate as I went in through the back.

Q. Did you see anybody have any guns?

A. Oh, yes.

Q. Did you recognize any of these men?

A. I didn't know any of them. I didn't recognize any but Mr. Wilcox and Mr. Levert, I recognized those two, I didn't know any of the other people.

Q. If you were to see any of these men do
377 you suppose you would recognize them?

A. Well, I really don't know I was so excited, I really paid no attention to it.

Q. Now, when you got to the place did you just walk in?

A. Yes, sir, I ran in, there was a little pipe, iron pipe between, and I had to climb through that, and I jumped over that pipe and ran around. I had to run around the garage to get in the office and I ran around then to that garage and ran in the office.

Q. Nobody had stopped you while you were going in?

A. Did not, nobody saw me, but there was a man in charge of the gate pointed a gun at me but he never did say anything, didn't say a word.

Q. You ran on in?

A. Yes, ran on in.

Q. Now, where did you go first?

A. I ran in the garage—I mean in the office.

Q. What did you find there?

A. Well, Mr. Williams and Mr. Bouchillon were there.

Q. Where was Mr. Williams?

A. He was lying right in the door, right back facing the door.

Q. Was he dead or alive?

A. He was dead.

Q. Where was Mr. Bouchillon?

A. He was lying in the corner, kind of in the corner of the office with his head toward Mr. Williams' house and his feet the other way.

378 Q. Was he alive or dead?

A. He was dead.

Q. Did you see any other men in there?

A. No, sir, just those two.

Q. Did you see any firearms in there?

A. No, sir.

Q. What did you find when you went into the garage?

A. Mr. Gaines, he was in the garage.

Q. Was he dead or alive?

A. He was dead.

Q. Did you notice the work bench in the garage?

A. The work bench, no, sir, I didn't pay any attention.

Q. Did you notice the window in the garage on the end towards Williams' residence?

A. Yes, sir.

Q. What was the condition of the window?

A. Well, the window was, as well as I can remember, it was a little bit open, just about that, at the bottom, (witness indicating). You know it was one of those windows that turn out, don't slip up you know, it is pushed out, and it was pushed out a little bit from the bottom about that (witness indicating).

Q. Was that a glass window or wood?

A. It was a glass window.

Q. Were the glass broken or not?

A. Yes, sir.

Q. Did you notice whether Gaines had anything in his hands?

A. Yes, I went to see. His mouth was down in the dust and I turned his head to get his mouth out of the dust, and he had a wrench in his hand, or something of that kind, some sort of a tool you use in a
379 garage.

Q. Are you related to Mrs. Williams?

A. No, sir.

Cross Examination.

By Mr. Talley:

Q. Does your husband belong to the Union?

A. My husband was not there, no, sir.

Q. Is he in Bogalusa now?

A. Yes.

Q. Does he belong to the Union?

A. No.

MRS. HELEN COBB, witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. Mrs. Helen Cobb.

Q. Where did you live on November 22, 1919?

A. In Bogalusa.

Q. We are investigating the killing of Lem Williams on that date, do you know anything about that affair?

A. Well, I know at the time it happened I was employed by Mr. Williams as a stenographer.

Q. Were you present there on that date?

A. I was at the office on that date but I was not there when the killing took place, I had gone out to lunch as was my usual custom between 12 and 1 o'clock and left there shortly before 12 on the day
380 that this happened.

Q. Did you see Sol Dacus there that day?

A. I did not.

Q. How long had you been there?

Q. You mean how long had I been employed by Mr. Williams?

Q. No, how long had you been there that morning?

A. From 9 o'clock until just before 12.

Q. Did you see any guns or fire arms in the office?

A. I did not.

Q. Do you know if there was a gun in the desk drawer?

A. There certainly was not, because I had access to the drawer every minute of the day and during the time I was there, there never was the sign of a gun or any sort of ammunition there.

Q. How long had you been employed by Mr. Williams?

A. From the early part of September.

Q. Had there ever been any trouble around that office before that date?

A. Never had that I know anything about.

Q. Just before the shooting took place did you see any men go into the property of the Great Southern Lumber Co., or coming out of it?

A. Why certainly I did.

Mr. Dufour:

I object to any leading questions. She left the place from 12 to 1.

381 Mr. Higgins:

I don't think that is a leading question. I am asking whether or not she saw any men going in or coming out of the property of the Great Southern Lumber Co.

The Court:

I will let her answer that.

Mr. Dufour:

I reserve a bill.

A. Well, after I got to lunch—I had my lunch at a little restaurant where very nearly everybody eats that works in that part of the town, Bunch' Restaurant, everybody that lives in Bogalusa knows where it is and after I had my lunch I started out to the commissary, everybody knows where that is too—I am sure—and during that time the siren whistle that is supposed to be blown for fires, and I believe for quitting time and starting time, something to that effect, was blown and men from the different places—where they happened to be at this time I don't know—but they ran for dear life inside of that wall that had been built similar to a prison, you know how they build them, so they couldn't see in and out, unless you got on the outside, and these men went in there, I didn't see them come out, so by that time I had gone to my home.

Q. Did you recognize any of these men that went in?

Q. Did you recognize any of these men
382 that went in?

A. No, I didn't because I didn't have the slightest idea that anything like that was going to take place and it never crossed my mind what the men were running in there for.

Q. Were these men that went in there armed?

A. No, there were not when they went in.

Q. Did you go back to the office after the shooting?

A. I did not, because I went to my home, and shortly after that some of the neighbors called over that somebody at Mr. Williams' office had been killed and I went across the street—

The Court:

You need not tell all that.

By Mr. Higgins:

Q. Did you go back to the office?

A. I did not.

Q. How long did you know Mr. Williams?

A. I guess probably three years before he had taken charge of the labor organization.

Q. What was his general reputation in Bogalusa for peace and quietness?

A. Well, he was—you must remember that I was nothing more than a child when I first knew Mr. Williams and all I had known about him he was a very peaceful man, he never bothered anybody to my knowledge.

383 Cross Examination.

By Mr. Miller:

Q. You began to work with him about 9 o'clock?

A. Yes, sir.

Q. And you stayed there until about 12?

A. Well, it was between 11:30 and 12 when I left. I had no strict office hours, I was at liberty to come and go when I pleased.

Q. Was anybody in the office when you left?

A. I think Mr. O'Rourke, one of the victims, was there, and there was I think somebody else in the garage, at that time but I can't say who he was.

Q. If he was working in the garage, he was not in the office?

A. Mr. O'Rourke was not working in the garage, he was in the office.

Q. And you don't recall anybody else being in the office?

A. No, I don't at the time I left.

Q. Do you recall anyone else coming into the office during the morning?

A. No, I do not.

Q. Did anybody come into the office during that forenoon before you left?

A. (No answer.)

Q. Mr. Williams was there all the morning?

A. Yes.

Q. Was Jim Williams there?

A. Well, I can't recall distinctly whether Jim Williams was there just at that time or not.

Q. The only man that was there then during that forenoon was O'Rourke?

384 A. To my remembrance, yes.

Q. You are quite certain that is correct?

A. I am quite certain Mr. O'Rourke was there, yes.

Q. But you are not certain no one else was there?

A. No, I can't say positively, because all the time men were coming in and out and my mind was on my work and I couldn't say positively whether there was anybody at all that came in besides O'Rourke.

Q. When you left there between 11:30 and 12 to go to lunch, were there 7 or 8 or 9 men sitting in the office?

A. No, there was not.

Q. You are sure of that anyhow?

A. I am positive.

Q. Did you see Mr. Bouchillon that morning?

A. Mr. Bouchillon?

Q. Do you know him?

A. I believe he was Mr. Williams' brother in law, wasn't he?

Q. Mr. Bourgeois, did you see him there?

A. No, sir, I didn't.

Q. And Mr. Bouchillon was one of the victims, as you know, did you see him there?

A. Yes, sir, I did.

Q. What time was he there?

A. Well, I can't say the specific time that he was there, but he was there during the morning sometime.

Q. Was he there when you left?

385 A. He was not there when I left, he might have been around the place I suppose, he was not in the office.

Q. Mr. Bourgeois wasn't there either when you left?

A. No, I don't know Mr. Bourgeois.

Q. Mr. Bourgeois was the brother in law of Mr. Williams wasn't he?

A. I think he was related to the family but I can't say positively.

Q. Do you know him?

A. No, sir, I do not.

Q. Had he been in the habit of coming around there?

A. Well, I will tell you I can't recall the names of all of the men that came in and out. My time was fully occupied with my work.

Q. You knew Mr. Bourgeois was a brother in law of Mrs. Williams, you knew that didn't you?

A. (No answer.)

Q. Do you know Norman Simmons?

A. Norman Simmons?

Q. I didn't catch your answer?

A. I don't recall, if I could see Mr. Simmons' face I could probably tell whether I know him or not.

Q. Do you know the colored man, Sol Dacus?

A. Yes, sir, I do .

Q. Was he there that morning?

A. He was not.

Q. Not there at all?

A. No, sir.

386 JOHN W. WILLIAMS, witness, being duly sworn and examined on behalf of plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. John W. Williams.

Q. You are related to Lem Williams?

A. Yes, sir.

Q. What was the relationship?

A. He was my son.

Q. Where did you live on November 22, 1919?

A. I was living in Bogalusa, at that time what is known as Columbia Road or street.

Q. How old was your son?

A. He was about 30 or 31 years old.

Q. Do you know the date he was born?

A. I don't remember those things. I can't keep up with the exact dates of the children but he was right around 30 or 31 years old, but I don't remember his birthday. I can keep up with my own and that is all.

Q. Were you present when the shooting took place?

A. I was a half block away.

Q. Please talk louder so all these gentlemen can hear you?

A. I was a half block away from the place where my son was killed.

Q. Had you been at your son's office before
387 the shooting?

A. Yes, sir, I was there just a few minutes before.

Q. Did you go into the office?

A. I just walked into the door.

Q. Did you look in the office?

A. Yes, my son was there, I went there to see him to ask him a question about the whistle blowing. That whistle had just blowed, the siren whistle had just blowed and I walked to ask him what he thought it meant.

Q. Did you see any guns around there?

A. No, sir.

Q. Who did you see in there besides your son?

A. I don't remember seeing anybody else in there right at present, because I went there for the purpose of asking what he thought of the whistle blowing like it did.

Q. What was there unusual about that whistle blowing?

A. Well, it only blows for fires, fire alarms and at 6 o'clock in the evening was the usual time for it to blow, and that being an unusual time and an extremely long blast, why I didn't understand what it was, and just merely walked up there to ask him if he knew what it meant.

Q. Did the whistle blow on that occasion just like it always blows when there was a fire?

A. Something like that, yes, sir. Only
388 there was another whistle that always followed that one, that didn't follow that time, the alarm, where the fire might be.

Q. Well, was there any difference between the whistle blowing that day and when it blew on occasions when there were fires?

A. Nothing, only a little longer, it blew longer.

Q. You stated something about another whistle following?

A. There usually is another whistle follows, to let you know where the fire is.

Q. Did that happen on that occasion?

A. No, sir, it didn't, didn't blow on that occasion.

Q. Well, what did you say to your son and what did he say?

A. Well, there was a little excitement the night before, and when I asked him that question he says, I guess—

Mr. Dufour:

Wait a minute.

A. (Witness continuing)—I guess they are going to pull off another stunt.

Mr. Dufour:

I ask that that be stricken out.

The Court:

You will disregard that gentlemen.

By Mr. Higgins:

Q. After you spoke to your son, what did you do?

A. I went back to my little work I was
389 doing.

Q. You went back to your work?

A. Yes, sir.

Q. Where were you working?

A. I was working on the street about a half block away from where my son lives, I was fixing to pull a man's car with a kind of crank. I had a truck and I was going to pull him, crank him up when this whistle blew. After I talked to my son I went back to finish the job that I started.

Q. Where were you when the shooting started?

A. Right at that place trying to crank that man's truck.

Q. What street was that?

A. I don't know the name of that street, nor the laundry, I don't know what the name is.

Q. When the shooting started, where did you go then?

A. I had my daughter's little child with me and I walked down the street, down the alley and came to my house and went in the back.

Q. You had your daughter's child?

A. Yes, with me down there where I was working.

Q. You had that little child with you when you came to your son's office?

A. When I went away.

Q. I say did you have that little child with you when you went to your son's office?

A. Yes, sir.

Q. You had that child with you on the job?

A. Yes, sir.

Q. You took that child to your home?

390 A. After the shooting I went down—I didn't know what in the world had happened, I didn't have any idea what had happened when a lot of shooting went on, and that is all I know, when I came in the back gate into my house the back way.

Q. Did you go to the scene of the shooting afterwards?

A. I started to go, I went in and left the child in the house and walked out on front and started to go down and I got as far as the gate and they would not let me go any further.

Q. Wouldn't let you go any further?

A. No, sir.

Q. Wouldn't let you go in your son's property?

A. No, sir.

Q. Who stopped you?

A. I don't know, there was a man who stopped me and I asked him for permission and he said, I will see if you can go in and he asked somebody back there where my son was lying, and he reported back I couldn't go, so I went back to my house.

Q. Was he the police officer of the city of Bogalusa?

A. I don't know sir, I don't know him at all.

Q. Do you know the regular police officers in the city of Bogalusa?

A. Yes, sir, I knew them at that time.

Q. Was he a regular police officer of the city of Bogalusa?

A. I don't know what he was, he was a stranger to me.

Q. Did he have a gun?

391 A. No, sir.

Q. At the time you got there did you see other men with guns?

A. Yes, sir, I saw a few men with guns around there.

Q. What kind of guns?

A. Looked to be shot guns.

Q. At the time you got there, did you see J. R. Lindsley, H. H. Wilcox, David Bienn, Louis Levert and Major Guerre?

A. No, sir, I don't remember seeing them at that time, they would not allow me in, I didn't stay any longer, I turned around and walked back to my house?

Q. How long after the shooting did you go around there?

A. Must have been from the time the shooting was until I got around to the back and inside the front, must have been about ten minutes, may be fifteen minutes, I don't remember.

Q. Did you inform the man at the gate that you were the father of Lem Williams?

A. Yes, sir.

Q. Well, did you ever get into the yard, into the building?

A. They turned the bodies over to us after the Coroner's Jury was held, after they got through the examination, they turned the bodies over to us.

Q. How long after the shooting was it before the Coroner got there?

A. Well, I think they had to come from Franklinton and it must have been two or three hours,
392 something like that, the bodies were not turned over to the families until away near night.

Q. Did you ever examine the office building there after the shooting?

A. Yes, sir.

Q. What was the condition of it?

A. Well, it had shot holes and bullet holes through it.

Q. Few, or many?

A. A good many.

Q. Where did you find the body of your son when you finally got in?

A. It was lying in front of his office door with his feet out toward the door, with his head back in toward the house?

Q. Did you see any other bodies in there?

A. Yes, sir.

Q. Whose bodies?

A. Mr. Bouchillon.

Q. Where was he lying?

A. He was lying more to the left hand corner as you walk in the door.

Q. Did your son live in this residence next to the garage?

A. Yes, sir.

Q. Is that his home?

A. Yes, sir, not his office that he was in, his residence, it was at that time in front of the office, the residence where he lived.

Q. Did you ever examine the side of your son's residence?

A. Yes, sir.

Q. Which is closer to the garage, in other
393 words if you were facing Columbia Road, the right hand side wall of the house?

A. Yes, sir.

Q. What was the condition of that?

A. I saw where one shot or bullet or something had glanced on the corner of this building, that is the only bullet I ever remember seeing in there.

Q. Can you tell from the way the bullet struck the house if it indicated what way the bullet came from?

A. It could come from the outside near Columbia Road and was leading toward the office.

Q. Do you know how much a month your son earned?

A. Only just what he told me.

Q. Was he in good health?

A. Yes, sir.

Q. What business was he engaged in?

A. At the time he was killed?

Q. Yes?

A. He was President of the Union, the Federation of Labor, something like that.

Q. What was his salary?

A. He told me he was getting $300.00 a month, the Union was paying him $300.00 a month.

Q. Did he make any money out of the garage?

A. Yes, sir, he made some money on the garage, he was a good mechanic and he made good with the garage.

Q. Was he living with his family at that time?

A. Yes.

Q. Supporting his wife and child?

394 A. Yes.

Q. I believe he had a child didn't he?

A. Yes.

Q. Boy or girl?

A. Boy.

Q. Do you know how old he was at that time?

A. He was five years old at that time.

Q. Is the child living with his parent?

A. Yes.

Q. Did he own his own property?

A. Yes.

Q. The property where this trouble occurred was his own property?

A. Yes, sir, his own property.

Cross Examination.

By Mr. Miller:

Q. Mr. Williams, you went to your son's office you say after the whistle blew?

A. Yes, sir.

Q. You asked him about it?

A. Yes.

Q. Was anybody in the office at that time?

A. I didn't see anybody in there at all, I was just looking for him. I don't remember seeing anybody there.

Q. It was a small office, wasn't it?

A. Yes.

Q. How big?

A. About 13 or 14, something like that, as well as I can remember.

Q. Some witness have said 8 x 10, and some have said 16 x 20. It was not more than ten feet square, was it?

A. About 10 x 14, 10 or 12 x 14, I never did measure it.

Q. Well, if there had been eight men in there, seven or eight men, you would have seen some of them,
395 wouldn't you?

A. Well, my son was near the door writing a letter on the typewriter, and being the only man I was looking for, there could have been men back in the office that I never paid any attention to, I just wanted to ask that question and I turned around and walked away.

Q. It was a desk to the right of the door back in the corner?

A. The desk, I think there was one to the left of the door as you went in.

Q. The typewriter desk?

A. I say I think there was a desk to the left of the door as you went in.

Q. Wasn't that a typewriter desk?

A. Sir?

Q. Wasn't that a desk where the typewriter was?

A. No, if I ain't mistaken he had that typewriter on a small table.

Q. At all events, you didn't see anybody?

A. Didn't see anybody, no, sir, never tried to see anybody, he was the only one I wanted to see.

Q. Was Jim there?

A. I don't know sir whether he was there or not.

Q. You didn't speak to him if he was there?

A. No, sir.

396 Q. He didn't speak to you?

A. No, sir, nobody spoke to me, I just asked that question and when he says—

Mr. Dufour:

Never mind what he said.

A. (Witness continuing)—Well, that is all the answer he made.

Cross Examination.

By Mr. Talley:

Q. Nobody else said anything if there was anybody there?

A. No, sir, nobody else said anything, I went right on back over to my work.

Q. The Great Southern Lumber Company have always been friendly to you, haven't they?

A. Yes, sir.

Q. Do you know of your own personal knowledge about them ever entering into a conspiracy to kill your son?

Mr. Higgins:

I object to that, we never brought out anything like that on direct examination.

The Court:

I sustain the objection.

Mr. Talley:

We reserve a bill.

Q. Mr. Williams, did you go to the city hall the night of the killing?

A. Yes, sir.

Q. Did you see Mr. Spickner there?

A. I don't remember seeing him.

Q. Was the chief of police there?

A. At that time Mr. Macgee, Abner Macgee was the chief of police.

397 Q. Did you have a conversation with him that night?

A. Not that I remember.

Mr. Higgins:

I object, that was never brought out on direct examination.

Mr. Ta'ley:

I think the objection is well taken.

At this point the further taking of testimony was adjourned until the following morning, Thursday, April 23rd.

MRS. SUSIE KNIGHT, witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. Mrs. W. H. Knight.

Q. Where did you live on November 22, 1919?

A. One block from the main street, Columbia Road, Bogalusa, Louisiana.

Q. Did you know a man named L. E. Williams?

A. I certainly did.

Q. What was his general reputation for peace and quietness in Bogalusa?

A. As far as I know he was a peaceable
398 man.

Q. Will you state what you know about the difficulty that happened at Williams' place on the day of November 22, 1919?

A. Well, I didn't go down there, I just heard the whistle and it blew at an unusual hour in the morning. The whistle only blows for fires and 6 o'clock in the evening. I heard the whistle blow somewhere about one o'clock. I was on the switch board at the telephone office over the company's drug store on the long distance cord, and I didn't have any calls. I had two calls for L. E. Williams that morning and I handled those—

Mr. Dufour:

If your Honor please, this is not relevant to any issue in the case, what calls she had to Williams.

The Court:

Don't mention about the calls.

A. That is all I know, I just had one connection for Mr. Williams after the whistle blew.

Q. What whistle was it you heard blow?

A. I heard the siren whistle.

Q. Where is that whistle located?

A. It is located at the saw mill, but I don't know—

Q. Do you know who owns that whistle?

A. No, I don't.

Q. Can you state what was the custom in
399 Bogalusa with reference to the blowing of the whistle and giving fire alarm signals?

A. The fire alarm signal was always the siren whistle was blown and then the big whistle blew the signal, but that was blown at an unusual hour of the day and that is all I know about it.

Q. So that whistle was blown as the usual fire signal?

A. No, it was not, no big whistle followed the siren whistle at all. It has always been when the fire whistle is blown it was always followed by a signal that gives the section that the fire is in.

Q. State what was the custom with reference to telephone calls in case of fire in Bogalusa, that went through the Exchange?

Mr. Dufour:

We object, that is not relevant to any issue. We have nothing to do with the Telephone Exchange.

Mr. Higgins:

I think it is relevant your Honor, I want to bring out the custom with reference to the blowing of the siren whistle.

The Court:

You can come up here and explain so I can tell whether it is relevant.

(Counsel talking to Judge in an undertone.)

400 By Mr. Higgins:

Q. Mrs. Knight, do you know if there was a fire that day?

A. There was no fire reported at the telephone office.

Q. Did you ever go up to the scene of the killing that day?

A. No, I didn't go down there at all.

JOHN LANGSTON, witness, being duly sworn and examined on behalf of the Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your full name?

A. John Langston.

Q. Where did you live on November 22, 1919?

A. I was living in Richardsontown, Bogalusa, Ia.

Q. Where were you on November 22, 1919, about the hour of one o'clock?

A. I was in Richardsontown where I live.

Q. Did you see anything of an unusual nature happen there that day?

A. Well, no other than when I heard that siren blow.

Q. Well, tell us what you know about that?

A. I heard that whistle blow of the Great Southern Lumber Co. It usually blowed at six o'clock in the evening and blowed for fires, and it blowed for fires
401 with different blasts for different parts of Bogalusa, and it blowed one long blast and we were sitting eating dinner and my wife said—

Q. Don't tell us what your wife said, tell us what occurred?

A. Well, that is the way it occurred. We were sitting eating and she hollored, fire, and I went in the door to look like anybody else would do, I went to the door to look and when I looked I saw car running down the road

and I seen people running and men with guns in the street and I said, that can't be fire.

Mr. Dufour:
We object to what you said.

The Court:
Don't state what you said.

A. Well, I saw them people running down the street and some had guns and some were in automobiles and some getting into cars with guns and I went down to see what was the matter and when I got near this place I seen the people all running up Columbia Road. There were a large lot of men across the street like that (witness indicating) and over where the fellows were killed at is a little distance and also inside the fence. You had to go through the gate to get in there, they wouldn't allow anybody in there, and I couldn't from where I was at that time see anybody back in there, I saw a lot of people in there.

402 Q. Did you recognize anybody that was in there?

A. From where I was at looking back in there—I was excited and scared and to identify or recognize an individual back there I couldn't really recognize them.

Q. Did you see any men in Williams' yard with guns?

A. Oh, there were a large amount of men with guns.

Q. Did you recognize any of them on the street?

A. Well, I was excited and scared more or less. I didn't stay but a short while and when I got there and saw all of that going on, I got away from there and came on back home.

Q. You never did go inside?

A. No, sir, never did.

Q. How long after the blowing of that whistle did you see these men with guns and these automobiles?

A. Just right away when the whistle blew they commenced moving and looked like all of them were rushing down toward this place where all this work was done.

Q. Where, what do you mean when you say this place where the work was done?

A. Where this here murdering was done.

Mr. Dufour:

I ask that that word be stricken from the record. He may call it killing but not murder.

403 The Court:

Well to the extent it indicates the nature of the act, I will ask the Jury to disregard the use of the word as indicating anything more than a homicide or killing.

Mr. Dufour:

That's the idea, that is all we ask.

Cross Examination.

By Mr. Miller:

Q. When you came up to this place, where did you stop?

A. Where I saw those men that wouldn't let me by.

Q. So that you couldn't see much?

A. There was a lot of men across the street that way and they wouldn't let anybody through there to get any closer.

Q. Well, how near did you get?

A. Well, I suppose it must have been 38 yards, from here to that door.

Q. From where?

A. From where the killing was done.

Q. How near were you to the gates of the opening that led into Williams' yard?

A. That is where I was, that big gate (Witness indicating).

Q. How near were you to that?

A. I suppose about three times from here to that door. (Witness indicating.)

404 Q. The place where this thing happened was away back in the yard. I want to know how far you were away, two or three times the length of this room from here?

A. Yes, sir.

Q. You went right there?

A. I went where that crowd was, I couldn't go any further.

Q. As soon as you heard the whistle blow?

A. Yes.

Q. And these men all in automobiles rushed up there just as soon as the whistle blew?

A. As quick as that whistle blew it looked like everybody was pulling right to this place.

Q. Do you know what time the whistle blew?

A. Sometime about twenty minutes to one o'clock.

Q. Do you know what time it was this shooting took place up there?

A. Right about that time.

Q. At the same time?

A. Yes.

Q. It was all over when you got there, wasn't it?

A. It was all done.

Q. How far did you live from there?

A. From Richardsontown to where this is at, I suppose it must have been somewhere about three-quarters of a mile.

Q. And what is the street that runs in front of this saw mill across the railroad track?

A. In front of the saw mill?

Q. It runs east and west in front of the saw
405 mill across the railroad track, what is the name of that street?

A. I disremember, I can't tell the name.

Q. Fourth Street, isn't it?

A. I can't remember positively.

Q. You know the street I mean, don't you?

A. Oh, yes, I lived there several years, I ought to know.

Q. Well, how far from that street did you live?

A. I can't remember positively. It is quite a distance from where I lived, I suppose it would be about a quarter of a mile at the very least.

Q. From the street?

A. Yes.

Q. Well that is the street you say the crowd of people were coming up?

A. That would be an air line right straight and the way I got around to get there is farther, a great deal farther.

Q. What street was it you say those people on?

A. On Columbia Road, the big road running down that way and right across that way (witness indicating).

Q. North of Fourth Street or south of Fourth Street?

A. It was on the street that runs this way, it would be on that street. (Witness indicating).

Q. Well, would it be toward Lem Williams place on Fourth Street?

A. It was right at Lem Williams gate where they had them lined up to keep anybody from getting
406 in.

Q. That is not what I asked, I asked where those people were when you first saw them?

A. When I first saw them?

Q. When you first saw them, where were they, what street were they on, which way were they going?

A. They were going to where this crowd was, where those people were.

Q. What street were they going?

A. On Columbia Road.

Q. You didn't see them then until you saw them on Columbia Road?

A. Why sure.

Q. How far below Fourth Street on Columbia Road did you live, at least a quarter of a mile didn't you?

A. Where I lived?

Q. Yes.

A. Back in Richardsontown.

Q. Then you couldn't see up that part of Columbia Road from your house?

A. From where I was at that time I didn't, but just as quick as I saw the people running, I went to see what was the matter and I followed the people as quick as I could and as far as I could go.

Q Then you saw these cars and you ran down that way?

A. From the time I got to the door I began to see the cars and the people and I just kept seeing them until I got to the place.

Q. Who were you working for at that time?

A. When the plant shut down I was working
407 for the Great Southern Lumber Company, pulling sinkers in the log pond.

Q. But at that time you were not working?

A. No, sir, I was not working, the plant was shut down.

Q. Belong to the Union?
A. Yes.
Q. You quit when the plant shut down?
A. Yes, well they knocked me off.
Q. Are you living in Bogalusa now?
A. No, sir.
Q. Where do you live?
A. I live in New Orleans.
Q. How long since you left Bogalusa?
A. I left there the next following evening after the shooting.

Cross Examination.

By Mr. Talley:
Q. Mr. Langston, I believe you stated that you had lived in Bogalusa some considerable time?
A. Yes, sir, I did.
Q. And as a consequence you knew these people that lived in your immediate vicinity, you knew the people who lived in your neighborhood?
A. Yes, sir.
Q. You did?
A. Yes, sir.
Q. Now, will you please state to the Jury the name of one man that you saw living in your vicinity, in all of this crowd, just the name of one man?
A. That went down there where this occurred?
Q. Just give me the name of one man you
408 saw, who, when the whistle blew, started down Columbia Road, give us one please?
A. Positively I cannot say because I never took that much notice, I was scared and excited and I wanted to see.

Q. Didn't you live down there?

A. Yes.

Q. Didn't you just say you knew the people in this neighborhood, and yet you don't remember the name of one single man that you saw there?

A. No, I do not.

Q. You don't remember?

A. Don't remember.

Q. And yet you remember all this other stuff?

A. I don't remember the names.

Q. Who did you go with down there?

A. Well, there were different people in the street.

Q. And you don't know their names?

A. On the street—a young fellow that was in that room there.

Q. He went with you?

A. No, he went down there—

Q. Whom did you see, some of your neighbors went right straight down there and you don't remember one name, do you?

A. No, I don't remember, I was scared and excited, I am going to tell the world.

409 Re-Direct Examination.

By Mr. Higgins:

Q. Do you know the regular police officers of the town or city of Bogalusa?

A. How is that?

Q. Do you know the regular police officers of the town or city of Bogalusa?

A. Now?

Q. At that time?

A. I know Chief Macgee, I saw him in the street many a time, and Charlie Bernard, I saw him in the street, he was a policeman.

Q. Talk louder, I don't hear you very well?

A. I knew Chief Macgee and I know Mr. Bernard.

Q. Well now, the man that stopped you that day as you came up to Williams place after the shooting—did you see Mr. Macgee or Mr. Bernard there?

A. No, sir, I don't remember seeing them.

Q. Were they the ones that stopped you when you got up there?

A. No.

By Mr. Talley:

Q. Where did they stop you, in front of what place?

A. Where you go to the hotel, that gate to the garage, there were plenty of people there and they wouldn't anyone in.

Q. You said you were about 38 yards distant from this door to the gate, now where were you by the laundry or over toward the paper will office?

A. No, sir, I was this side of the laundry a
410 good bit.

Q. Which side do you mean by this side, do you mean the side next to Williams, or the side next to Dreyfous store?

A. I mean the side coming up Columbia Road, that is going over to Pleasant Hill, I mean North Bogalusa was on this side, just like you came from Richardsontown.

Q. And you hadn't got to the laundry?

A. No, sir.

Q. Were you on the sidewalk or in the street?

A. In the street.

JIM SPIERS, witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. Jim Spiers.

Q. Where did you live on November 22, 1919?

A. I lived in Bogalusa.

Q. I want you to talk loud so all these gentlemen there can hear you?

A. Alright, sir.

Q. Where were you about 11 o'clock that day?

A. About 11 o'clock?

Q. Yes. Did you have occasion to be in the vicinity of Lem Williams home or residence?

A. I was at Lem Williams home at 10 or between 10 and 11, the best I remember now.

411 Q. Whom did you see while you were there?

A. I don't know whom I did see, I saw several people.

By the Court:

You will have to talk a little louder, I don't hear you very well.

A. I say I saw several persons there.

Q. Do you know the names of them?

A. I saw Mr. Simmons, I believe, Mr. Nichols—there were several there, I don't know just how many I did see.

Q. Was Mr. Lem Williams there?

A. Yes, sir.

Q. What did you see in the office while you were there?

A. Well, I didn't see anything more than is just in an office, some seats and things, people sitting around,—

Q. Did you or did you not see some fire arms?

A. I did not.

Q. Do you recall what Mr. Williams was doing at the time you were there?

A. How is that?

Q. Do you recall what Mr. Williams was doing at the time you were there?

A. I think he was sitting at his desk writing, the best I can remember.

Q. Were you present at the time of the shooting?

A. No, sir.

Q. What time did you leave the office?

412 A. It was somewhere about 10, or half past 10 or 11 o'clock I don't remember just exactly, but it was in the fore part of the day, sometime about 10 or 11 o'clock, I suppose.

Q. How long had you known Lem Williams?

A. Well, I have known Lem Williams about, the best I can remember four or five years, something like that.

Q. What was his general reputation in the community for peace and quietness?

A. It was good so far as I know.

Q. Did you ever have occasion to visit the City Council meeting with Lem Williams in Bogalusa?

A. Yes.

Q. On that occasion did you—

Mr. Dufour:

Are you going to fix some date.

By Mr. Higgins:

Q. When was it that you went with him to the City Council meeting?

A. I can't tell you just what date it was, I don't remember.

Q. Can you approximate how long it was before the killing?

A. No, sir, I can't say.

Q. How many times did you have occasion to go to the City Council meeting with Mr. Williams?

A. I don't believe more than once, I went once.

Q. How did he conduct himself on that occa-
413 sion?

Mr. Dufour:

We object, it might have been fifteen years ago or two years ago. There is nothing to indicate when it was or under what circumstances.

By Mr. Higgins:

Q. I will try and fix some date. On that occasion you went to the City Council with Mr. Williams, was it ten years prior to this killing or how long?

A. Why something like a month, thirty days, may be more or may be not so much, I can't say just exactly how much.

Q. Did he get in any fight or fuss that night?

A. No, sir.

Q. Did you have any occasion to be with Mr. Williams sometime prior to the killing when he was arrested?

A. When he was arrested?

Q. Yes.

A. Yes, sir.

Q. How long before the killing was it when he was arrested?

A. I think a couple of months, something like that.

Q. Do you recall who arrested him?

A. Who arrested him?

Q. Yes.

A. Mr. Branche and Mr. Mitchell were together when they arrested him. They were the two men that arrested him.

Q. Were they regular police officers of the city of Bogalusa?

414 A. Yes, sir, I think they were.

Q. On that occasion did he make any attempt to resist arrest?

A. None at all.

Q. On the day of the killing, did you see anyone going to Lem Williams place?

A. Yes, sir.

Q. Did you recognize the parties?

A. Some of them I did.

Q. Can you name the ones you recognized?

Mr. Dufour:

Now, your Honor, is this 9 o'clock at night or 5 o'clock in the morning. The witness stated he was not in the vicinity at that time, I don't think that is relevant or material to the issue.

A. What time was it that I saw them going to his place?

Q. Yes.

A. It was between 12 and 1 o'clock the best I can remember now.

Q. Who were the parties you saw going?

Mr. Dufour:

We object until he places the witness and shows what was going toward the place. He has not placed the witness, or the hour, or the circumstances or anything.

By Mr. Higgins:

Q. Where were you, Mr. Spiers?

A. I was on the street in Bogalusa.

415 Q. What street?

A. Up above Mr. Williams place, Columbia Road.

Q. How far from Mr. Williams place?

A. I guess it was about 50 or 75 yards, something like that.

Q. What time of day was it you say you were there?

A. Somewhere between 12 and 1 o'clock, the best I can remember.

Q. Now, did you see any parties going toward Lem Williams place?

A. Yes, sir.

Q. Did you recognize them?

A. Some of them I did.

Q. Will you name the ones you recognized?

A. Well, I remember Bill Mitchell was in the crowd.

Q. Who?

A. Bill Mitchell, M. C. Jenkins, a man by the name of Cowgill, I don't remember who was in the crowd, I can't remember the names of them all.

Q. I know, but I want you to give the names of the ones you do remember?

A. Wiley Macgee, I believe that's about the only man I remember now.

Q. Will you kindly look around the Court room and see if you can see anyone in the Court room that you saw that day going toward Williams place. You were standing at the place you have just said?

A. I believe I see one man.

416 Q. What is his name?

A. Mr. Levert.

Q. Mister who?

A. Mister Levert.

Q. Did he have anything in his hands at the time you saw him?

A. He had a gun.

Q. What kind of a gun?

A. I couldn't tell you whether it was a shot gun or what but I believe it was a shot gun.

Q. Did you or did you not see J. B. Lindsley, H. H. Wilcox, David Bienn, Louis Levert or Major Guerre—

Objection: Mr. Talley:

Same objection as heretofore made.

By Mr. Higgins:

Q. Let me finish my question—going in the direction of Williams home and garage on November 22, 1919.

Mr. Dufour:

Same objection.

A. No, I can't say I did.

Q. Mr. Spiers, a minute ago I asked you to look around the Court room to see if you recognized anybody in the Court room who was going in the direction of Mr. Williams home that day, and your answer was Mr. Levert, Mr. Louis Levert. I have read to you—

A. Mr. Levert, I said, I didn't know his name was Louis or what it was.

Q. Is the Levert that you recognized as going toward Mr. Williams' home, the same Levert that is in
417 the Court room?

A. I believe it is, yes, sir.

Q. The same man that had a gun in his hand?

A. I believe he is the same man.

Q. You believe, now do you know?

A. Yes that is him over yonder (Witness indicating).

Q. I want what you know, not what you believe.

Mr. Dufour:

Cross examining your own witnesses?

Mr. Higgins:

I was just telling him I want what he knows, not what he believes.

Cross Examination.

By Mr. Talley:

Q. Were you working for the company at that time?

A. How is that?

Q. Were you working for the company at that time?

A. No, sir.

Q. Have you ever worked for them?

A. Yes, sir.

Q. Member of the Union?

A. Yes, sir.

Q. Still living in Bogalusa?

A. Yes, sir.

Q. Just where were you standing when they passed?

A. How is that?

Q. Just where were you standing when they passed?

A. I was right up above the laundry, back this way from the laundry. (Witness indicating.)

Q. How far from the laundry?

418 A. Well, I told you a while ago I supposed 50 or 75 yards, may be not so much, and may be more. I never measured it to see.

Q. Were you in front of Jos. Levi, in front of Levi, or Einstein or Dreyfous stores?

A. I was right—you know where Mitchell's place is?

Q. Were you there?

A. Right close to Mitchell.

Q. Had Levert passed you?

A. No, sir, I didn't say he passed me.

Q. Well, where did you see him?

A. As he came out from the laundry and went with this crowd when they passed there.

Q. Went with the crowd when they passed?

A. Yes, sir.

Q. And they went north?

A. Huh?

Q. They went north?

A. Yes, they went up as far as Williams gate there.

ARTHUR McALISTER, witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. Your name is Arthur McAlister?

A. Yes.

Q. Where did you live on November 22, 1910?

419 A. I was living right behind the paper mill.

Q. What town?

A. Bogalusa.

Q. Did you have occasion that day to be in the vicinity of Lem Williams home or garage on November 22, 1919?

A. No, sir, I didn't have any occasion to be there.

Q. Were you there?

A. Yes, sir, I was there, I was passing by and I stopped in, that is going to north Bogalusa.

Q. Talk louder Mr. McAlister?

A. (Witness continuing)—and there were several fellows there I knew and I was out in front and I stopped there talking and finally went on in.

Q. Went in where?

A. Lem Williams place of business.

Q. What time was that?

A. That was around one o'clock.

Q. What happened while you were there?

A. While I was there these men came there and killed the man who was killed.

Q. When did you first observe or see these men?

A. The man that done the shooting?

Q. Yes.

A. I saw them about the time they got out of the cars and came in the yard.

Q. Did Williams have this place fenced in?

A. Yes, sir.

Q. Did he have a gate there closed or open?

420 A. I wouldn't be sure it was closed when I went there, but he had a gate.

Q. Can you state of your own knowledge whether or not these men opened the gate to come into the yard?

A. I can't swear by that, no sir, I didn't see them until some of them was in, before—there was not but thirteen came inside of the yard, thirteen men came inside.

Q. That was when they first arrived?

A. Yes, sir.

Q. Did you recognize any of those thirteen men?

A. Yes, sir, I know some of them, and some of them I didn't know.

Q. Name the ones you recognized?

A. Well, I knew Wiley Macgee, he was the man that made the first shot that killed Lem Williams.

Q. Who else did you know?

A. I knew Bob Carson, I knew these two LeBlanc brothers.

Q. Who else did you recognize?

A. There was Major Guerre.

Q. Who else?

A. That is about all I can identify.

Q. The only ones you can identify of the first thirteen that came in?

A. Yes.

Q. Will you kindly look around the Court room and see if there was anybody else there on that occasion?

421 A. Of course, that has been quite a while ago. There may have been some I don't remember, but I don't see anybody I personally know.

Q. Where were you standing at the time you saw these men coming in the gate?

A. I was not standing, I was sitting on the bench in Lem Williams office.

Q. What part of the office were you sitting in?

A. Well, it was built with the ends facing the street and I was sitting at the upper end on the breach.

Q. Who was in the office?

A. There was myself, Jim Williams, Lem Williams the man who got killed, and that fellow Bouchillon, they were all in the office, they got killed, and myself and Richau who didn't get killed.

Q. Who were the ones that got killed?

A. Well, Lem Williams got killed, O'Rourke got killed and the fellow Bouchillon, and Tom Gaines, and another, Lem Williams brother-in-law, I can't think of his name, he died later, he got shot, he wasn't killed then.

Q. Do you know where Gaines was at the time he got killed?

A. I didn't see Gaines when he got shot, he was killed in the garage. I didn't see that when he got killed, he was killed at the side window.

422 By Mr. Dufour:

Q. What was that?

A. He was shot in through the side window of the garage.

By Mr. Higgins:

Q. Did you see Lem Williams when these men first came in the yard?

A. Yes, sir.

Q. Where was he then?

A. He was at the center table in his office.

Q. What did he do as the men came in the yard?

A. He didn't do anything.

Q. What did he do as they came close to the office?

A. The men just marched into the office with their guns on their shoulders got right opposite the door, and just brought their guns down like that (witness indicating) in a shooting position. Lem Williams asked, what do you want. They had all jumped up, every one of the fellows, and Lem Williams got up and came to the door and said, here I am, what do you want, and Wiley Macgee made the first shot and killed Lem Williams.

Q. Where was Williams at the time he was shot?

A. Standing right in the door facing the crowd.

Q. Was there anything between Williams and Macgee at that time?

A. Not a thing.

Q. Did you notice whether or not Williams had anything in his hands?

423 A. Williams didn't have anything in his hands, he was bareheaded and in his shirt sleeves, that is all that passed between them.

Q. What did you do after the shooting started?

A. After Lem Williams was shot down and Bouchillon, I got behind the door, there was a glass door to the office except the bottom end.

Q. Please talk a little louder?

A. I say the door was a glass door, Mr. Williams office door, you know how a glass door is, the bottom end is wood and just about the time I stepped behind that door a load of buckshoot hit that glass and busted it all over the place. I just dropped down behind the door, the door pulled back again—

Q. Talk louder please, we can't hear you at all?

A. I just dropped down behind the door and stayed there until the shooting was over. The door pulled back as far it could. The shooting didn't last only a few minutes it was all over. Almost all the shots were fired from the outside.

Q. What did you do after the shooting?

A. Well, after the shooting was over, the men walked back to the street and Williams had a telephone and the phone commenced ringing and I decided to get up, and I started over to the door and I met the chief of
424 police Macgee and one of his officers, another policeman.

Q. Is he a regular officer of the city?

A. He was then chief of police, Macgee was his name.

Q. Is he a relative of Wiley Macgee, if you know?

A. I don't know that, I just know he was chief of police.

Q. How did he spell his name?

A. I don't know that. I never asked him, he met me at the door, and he searched me, felt every pocket I had.

Q. Found nothing on you?

A. No, no. He started to go over me again and I said, "I ain't got no gun if that is what you are hunting for." At first he asked me what I was doing there and what I had, and I said I had just stopped in on my way,

and he said, "get out of here, you didn't have any business to come in here," so I says, "alright" and I walked out and went home.

Q. Why did you go to Williams office at all that day, what was your purpose?

A. How is that?

Q. What was your purpose?

A. Didn't have any purpose.

Q. Were you working at that time?

A. No, sir.

Q. What was the reason you were not working?

A. The paper mill was shut down. I worked
425 at the paper mill, I was operating in the digester room, before it shut down. I don't know just how long it was before that.

Q. Were you a Union man?

A. Yes.

Q. Was Williams office the place where the Union men congregated, or—

A. No, not usually, they never had any meetings or anything like that there, they had a regular hall over toward the northward.

Q. Did you see Williams give Macgee any cause or provocation to fire at him?

A. None whatever.

Mr. Dufour:

That is asking the witness for an opinion.

The Court:

You can ask him what Williams said, or what he heard.

Mr. Higgins:

I will withdraw the question.

The Witness:

I told you all what both of them said.

By Mr. Higgins:

Q. I understood you to say you saw Major Guerre there?

A. Yes, sir, I saw Major Guerre there.

Q. Where was he?

A. He was amongst the thirteen men that came in.

Q. Did he have anything in his hands?

A. He had a gun.

Q. What kind of a gun?

426 A. I couldn't tell you, some of them had rifles and some of them had automatic shot guns. The only man I could see who had a real shot gun or a pump shot gun, was Wiley Macgee, I know he had one.

Q. Did you see Bob Carson have anything in his hands?

A. They all had guns that came in.

Cross Examination.

By Mr. Miller:

Q. Mr. McAlister, you say there were thirteen men came into the yard?

A. Yes, sir.

Q. Is that all that came in?

A. All that came in at first, after the shooting I don't know who came in and out.

Q. Did these thirteen men all come up in front of the office?

A. Just that many in front of the office.

Q. Altogether?

A. Well, they were in line.

Q. You counted them?
A. Counted them, yes.
Q. And how many of them can you name?
A. Well, I named all I could name.
Q. You named Wiley Macgee?
A. I knew Wiley Macgee personally.
Q. And you named Bob Carson?
A. Yes, sir.
Q. And you named Major Guerre?
A. Yes, sir.
Q. And you named the LeBlancs?

A. The LeBlanc Brothers, I don't know their
427 names.

Q. Well, Joseph LeBlanc and Paul LeBlanc. That is all you can call out of the thirteen?
A. Yes, sir.
Q. And you will swear, will you, that those men you have named, every one of them came up in front of the office?
A. In front of the office with guns.
Q. With guns, and that was when the shooting took place?
A. Well, Wiley Macgee made the first shot and killed Lem Williams, and after that I don't know how many of them shot, but there were a number of guns fired out there.
Q. Who spoke first when these men came up, who was the first man that said anything?
A. Lem williams.
Q. What did he say?
A. He asked them what they wanted, the man says, all you fellows come out of there, every one of the fellows came out of there and Williams came to the door and he says, well, here I am what do you want, he was standing right in the door, and Wiley Macgee just took his time and fired on him.

Q. Who was it told him to come out?

A. Wiley Macgee said, tell him to come out, and whoever told him I don't know.

Q. Told him to come out, who told him?

A. There was more than one man talking.

428 Q. Then Lem Williams came to the door?

A. Lem Williams came to the door.

Q. And then Wiley Macgee shot him?

A. He says, well here I am what do you want, and Wiley Macgee shot him just about where I am from you, just took his time and shot him right through the heart.

Q. Didn't say anything more?

A. Not a thing more. I was looking at him just like I am looking at you, face to face right now.

Q. Did you see anybody shoot from the inside of the office?

A. No, sir, I did not.

Q. Did you see anybody shoot at all?

A. No, sir.

Q. Didn't see Jim Williams shoot from the inside?

A. I saw Jim Williams with a little 22 rifle, but I couldn't say whether he shot or not.

Q. You testified before the Coroner's Jury in this case?

A. Yes, sir.

Q. Soon after the shooting?

A. The Coroner's jury?

Q. The Coroner's Jury?

A. I will tell you about that Jury now—

Mr. Higgins:

I object to anything coming out on cross examination that was not brought out on direct examination.

429 If you want to prove anything about the Coroner's Jury by this witness, you will have to produce him and make him your own witness.

Mr. Dufour:

If your Honor please, he has testified as to things which took place that day and we want to ask him if he did not testify as to other matters before the Coroner's Jury about the same things. It is perfectly legitimate cross examination.

The Witness:

I can tell you all about the Coroner's Jury. I was the only man on the Coroner's Jury—

The Court:

To the extent that this is cross examination—I don't understand the intent to prove any substance or facts. This is cross examination and he can test the witness' memory.

By Mr. Miller:

Q. You did testify before the Coroner's Jury, didn't you?

A. Yes, I was summoned before the Coroner's Jury but I never met any Jury, I met one man that was acting as the Jury.

Q. Do you know who that man was?

A. Dr. Brock, the Coroner who held the inquest.

Q. In that statement before Dr. Brock, did
430 you not state that you saw Lem Williams first?

A. No, sir.

Q. Were there any guns or weapons of any kind in the Williams office?

A. That rifle was all I saw.

Q. Did you not testify before the Coroner's Jury that there were two or three guns in the office?

A. No, sir, if they were hidden in there, they could have been there, I wouldn't say they were not.

Q. Didn't you state before the Coroner's Jury they were there?

A. No, sir, I did not.

Q. And these men that you identified, were they armed, how was Wiley Macgee armed?

A. Armed?

Q. What weapon did he have?

A. Automatic shotgun.

Q. What did Bob Carson have?

A. I couldn't say, like I told you, some had rifles and some shot guns, I don't know which had shot guns and which rifles, except Wiley Macgee, he had a shot gun.

Q. You say everybody had a riffle or a shot gun?

A. Everybody had a rifle or a shot gun.

Q. All armed?

A. Yes, sir.

Q. Every one of them?

A. Every one had a gun.

Q. When you say a gun, you don't mean a pistol, you mean a gun?

431 A. I mean rifles and shot guns, if they had pistols, they had them in their pockets.

Q. Every one of them there had a gun or a rifle?

A. Rifle or shot gun.

Q. Where was Gaines before the shooting commenced?

A. I couldn't say exactly, he was in the garage.

Q. Was he in the office at all?

A. I can't say for sure whether he was in the office or not. If he was, he was not there when the shooting started.

Q. How do you know he was in the garage, you were in the office and he was not there?

A. He was killed in the garage.

Q. Did you see him go in the garage?

A. Yes, sir.

Q. From where, from the office?

A. He was not in the office but was standing on the outside, and I never noticed him after I saw the men come in there, but he was killed in the garage.

Q. How long had you been there before these men came?

A. Hadn't been five minutes.

Q. And Gaines wasn't in the office at all during that time?

A. No, sir, if he was, I didn't see him.

Q. You would have seen him if he had been in the office?

A. Probably I would and may be I wouldn't.

Q. It was a small place, wasn't it?

432 A. Small place, but he was not in there when the shooting started.

Q. Did you not testify before the Coroner's Jury that when these men got near the office Lem Williams said, come on in, let's see what you have got?

A. No, sir, I did not make any such statement as that, as I told you I never was before the Coroner's Jury, I went before Dr. Brock, he was the only Jury.

Q. Did you make any statement?

A. I said I would make a statement just like it was and I did.

Q. You signed the statement there?

A. No, sir, nothing signed.

Q. Didn't you make a statement and sign it?

A. No, sir, I stated to him just like it was and he told me alright, that is all, and I told him I was summoned before the Coroner's Jury, and he said, I was the Jury.

Q. The Jury was right there wasn't it?

A. No, sir.

Q. You don't know whether it was or not?

A. There was not anyone in the room but me and the Coroner, I know that.

Q. At all events you made a statement before the Coroner at that time?

A. Yes, sir.

Q. Coroner's Jury or not, you made it before the Coroner?

A. Just like I told you, I told him the same
433 words.

Q. You didn't sign it?

A. I didn't sign any statement before, I wasn't asked to sign.

Q. The Corner's inquest was held when?

A. Sir?

Q. The Coroner's Jury was held on that same day right after the killing?

A. The next morning. The inquest was held that evening, the Jury was commenced the next morning, but I was summoned to the city hall the next morning at 9 o'clock.

By Mr. Dufour:

Q. You only made one statement to Coroner Brock?

A. That is all.

Q. Mr. McAlister, at the time you made the statement to the Coroner, did he put you under oath?

A. No.

Q. You and he were the only ones in the room at that time?

A. We were the only ones there. The room is as big as this, and here I was sitting down talking and he told me he understood I was over at the trouble, and I says I was, and he says, where were you at that time, and I told him after the shooting started I was behind the door—

Q. That is all?

A. (Witness continuing)—and then he asked me to relate the whole thing to him just like it was.

434 Q. You are making the same statement now that you made to him?

A. The same statement, but I didn't sign any statement, I wasn't asked to sign it.

Q. None of the members of the Coronor's Jury except you and the Coroner were there?

A. We are the only men that were present.

MRS. IDA MELANCON, witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. Mrs. Ida Melancon.

Q. Are you related to Lem Williams?

A. Yes, sir, I am his sister.

Q. Where were you living during November, 1919?

A. I was in Bogalusa at that time at my father's home.

Q. How far was your father's house from your brother's place?

A. Well there was—must have been about a half block, there was one block between my father's home and my brother's house.

Q. State what you know about the shooting or killing that day?

435 A. Well, I was at my father's house, on his porch, and my sister, my mother and I, all of us and we seen several cars going past with men, armed men, some of them with guns, you might say all

of them with guns, and I went into the kitchen, me and my mother, and I had no more than got in there when I heard my sister say—

Q. Don't say what your sister said.

A. I came out and she called me and I ran—I seen all the men getting out of the cars, and I just kept running from my mother's until I got to my brother's place, and when I got to the gate I didn't hesitate, I just kept running along until—there was a boat right at the end of my brother's place, and I stopped at that boat, and as I stopped I seen Wiley Macgee and Mr. Sibley, and two more men, I don't know their names, they were a few steps ahead of the crowd, and Wiley Macgee had his gun like this pointing toward the garage (witness indicating) I didn't see my brother but I heard him come to the door and say, well, what is this, what do you fellows want, and Wiley Macgee whirled around with his gun like that and says, "we want you" and he shot him, and so I ran, after that was over I ran from the boat and went through this big house, this big two story house of my father's between the little house and
436 my brother's house, and I ran through this house and went to the back door and I seen Jim Williams, my other brother standing under a little window that opened out of the office into the yard, and I hollered, "Jim they are going to kill you, why don't you tun [run], they are going to kill you," and he looked at me—

Mr. Dufour:

If the Court please, I ask that that be stricken out.

Mr. Higgins:

That is part of the res gestae.

The Court:

What part is objected to?

Mr. Dufour:
The conversation between her and her brother after the occurrence.

The Court:
Don't state anything that your brother said.

Mr. Higgins:
At the time of the shooting, Judge.

Mr. Dufour:
This was five minutes after.

A. He never said a word, he never spoke to me. I asked him why he didn't move, they were going to kill him—

Mr. Dufour:
If your Honor please, now we object.

437 By Mr. Higgins:
Q. Was that during the time the shooting was taking place?
A. Yes, sir.

The Court:
That is irrelevant, it is just hearsay explanation, the Jury will disregard that part of it.

Mr. Higgins:
I will reserve a bill.

The Court:
What are you reserving a bill to?

Mr. Higgins:

To the effect she could state any exclamations or statements that were made at the time of the shooting, during the excitement that was going on, that is part of the res gestae.

The Court:

That she told her brother he would be killed if he didn't run?

Mr. Dufour:

That was five minutes after the shooting.

Mr. Higgins:

She didn't say it was five minutes after the shooting.

Q. Was that during the time of the shooting, the actual shooting?

A. Yes, sir, they were still shooting when I came back and I was running all the time and they were still shooting when I asked him to run. He didn't say anything to me, but only looked at me, just turned
438 around and walked off back through there—there is a little chicken coop like—but it was big enough for the men to walk through—he just walked through and walked back in the same direction in the back of the office and he stayed there, I didn't see him any more. I came running back through the same house and then there were a whole lot of women in there, the landlady, etc., and Jim Williams came right through the back door, there is a gate there, there was a wall between the two houses and my father's yard, and I came back out there and seen my sister-in-law Mrs. Lem Williams and Mrs. Jim Williams, all talking to some men. I didn't identify any of the men except one, John Whittington, was

his name, and she was asking him not to shoot and when I got to the gate he shot and Mrs. Williams knocked the gun up like that (witness indicating) and I ran in the back yard and I seen my brother come up with his hands up like that (witness indicating)—

Q. Which brother?

A. Jim Williams—and they started to shoot again—and she, Mrs. Jim Williams ran up and jerked the gun away, she says, don't shoot any more don't you see he has got his hands up, and he just gave her a shove like that and said, if you women don't get away
439 from here—

Mr. Dufour:

If your Honor please, we have been going on for fifteen minutes after the shooting, it is perfectly obvious that this is harangue.

Mr. Higgins:

If that is not res gestae, I don't know what you would call it. The shooting was not through, the men were still attempting to shoot Mr. Williams.

Mr. Dufour:

She ran through two houses and came back.

The Witness:

One house.

She can testify to what she saw.

Mr. Talley:

I reserve a bill.

By Mr. Higgins:

Q. Go ahead.

A. Well after that he says to her, he says, if you women don't get away from here—giving her a shove like that (witness indicating)—there was a china tree standing at the end of my father's porch from that distance from here to here, to this big gate, and he says, if you women don't get away from here you are going to get the same thing. I didn't see my brother any more, he didn't come out, some tall man, I don't know the man, he brought Mr. O'Rourke out, he was shot somewhere, because he was holding his hand here (witness
440 indicating) and he says, boys you have got me—

Mr. Dufour:

Never mind that.

By Mr. Higgins:

Q. Was that at the time of the shooting that O'Rourke said that?

A. Yes.

Mr. Miller:

That was five or ten minutes maybe afterwards.

The Court:

What is this relevant to prove?

Mr. Dufour:

God only knows, she has been traveling all around the block for twenty minutes. I would like the Court to hear me just a minute.

The Court:

Let's get the record straight Mr. Dufour.

Mr. Talley:

We are being sued for killing Lem Williams, not for threatening this woman, not for shooting Jim Williams, and not for doing anything except just killing Lem Williams. That is all they are being sued for in the Court please. Now, if she gets in anything which is outside of that it is going to prejudice my client in the eyes of the Jury and it is not fair to us.

The Court:

The only objection you are making is the exclamation of O'Rourke?

441 Mr. Higgins:

I want this to show in this case. The answer says that these parties were on a peaceful mission and that these men were congregated and organized for the purpose of resisting arrest, I don't know what O'Rourke's exclamation may be, but we think it will throw some light upon that.

A. Yes, sir.

Q. While you were there?

A. May I speak all he said?

Mr. Dufour:

Wait a minute.

A. (Witness continuing) He said he was hurt—

Q. Where did he have his hand? You saw him?

Mr. Talley:

Objected to as immaterial and irrelevant.

The Court:

What is the question?

Mr. Higgins:
I asked her where O'Rourke had his hand at the time she saw him?

The Court:
Let the witness answer.

Mr. Dufour:
I reserve a bill.

A. Some gentleman had him by the arm and he says, "Boys, you got me, do something for me."

442 By Mr. Miller:
Q. What?
A. He had his hand up like this, holding it like this (witness indicating) and the gentleman had him by the arm and he cussed him, and he said come on we will do something for you alright.

Higgins:
Q. Do you know who it was that was holding him?
A. No, sir, I do not.
Q. Did he have a gun or not?
A. I never noticed if he had a gun.
Q. Now, while you were there, will you state whom you recognized?
A. Yes, sir, I can name a whole lot of names.
Q. Well name all you saw that you can remember?
A. Well, I seen Sibley, Mr. Levert, Bob Carson, Wiley Macgee, Mr. Bienn, one of the Bernsteins, Mr. Lambright— I can't recall that name— oh, Dr. Brumfield, I can think of a whole lot of names if I had time, John Whittington, it is hard for me to think of them so fast, if I had time I could think of a whole lot of them.

Q. Well, think if you can, of any more. Go ahead?
A. Willie Stratton, I believe that is all I can give the names of right now that I seen.
Q. During the time of the shooting, while these men were still on the premises, did you or did you not hear a man by the name of Bob Carson make a statement?
A. Yes, sir, I heard him.

443 Mr. Dufour:
Wait a minute.

Objection: Mr. Talley:
Objected to as irrelevant and immaterial so far as we are concerned, the individual defendants, any statements Bob Carson made.

Mr. Miller:
We object to it as immaterial so far as the Great Southern Lumber Company is concerned.

Mr. Dufour:
You have not shown any conspiracy.

Mr. Higgins:
That is a question for the Court to determine later on. The statement made by these men while the shooting was still going on and in her presence is part of the res gestae and is relevant in the case.

The Witness:
I seen Mr. Wilcox there too.

Mr. Dufour:
If your Honor please, if the want to prove anything like that, let them put Bob Carson on the stand. He is

not a defendant, he is available for them, we are not bound by what Bob Carson said, they have certainly not shown at this time that the Great Southern Lumber Company has entered into any conspiracy, there is no proof that Bob Carson is our agent.

444 The Court:
This is supposed to take place at what time?

Mr. Higgins:
At the time of the shooting while these men were still there with their guns.

By Mr. Higgins:
When did you hear him make a statement? Don't tell what the statement was, when did you hear him make the statement?
A. After the killing was over when he was standing in the gate.

Mr. Dufour:
That is hearsay, we object.

By the Court:
How long after the killing?
A. Well, just a few minutes, it happened awful quick, just a few minutes, when I came running from this house I told you about, when these men hit my sister in law, I went running back to the gate and when I came to the gate he stopped me and would not let me go any further, he told me—

Mr. Dufour:
Wait a minute please, wait a minute.

Mr. Higgins:

If the Court please, there is quite a difference in the law of evidence as to what is hearsay, and the question that has been put is to establish the fact that the
445 words were spoken. We are not trying to prove that the words themselves were proof, we ask that the witness be permitted to answer the question.

The Court:

We will have to rule out the evidence and let you recall the witness when you can produce authority.

Mr. Higgins:

I reserve a bill.

Q. Mrs. Melancon, do you know of your own knowledge why these men came to your brother's place?

Mr. Dufour:

That is an expression of opinion.

Mr. Higgins:

It is not, I asked her if she knew of her own personal knowledge.

The Court:

Let her answer if she knows, and you can then find out how she knows.

A. No, I don't know why— I don't know anything about the trouble between my brother and the Great Southern Lumber Company, I don't know anything about that, but I only know just what I seen there that day, I don't know anything about why they came there to kill him, why they did kill him and all that, because

I never was connected up with that part of it, never was around it.

Q. Had you been to your brother's office
446 prior to the killing?

A. On that day I had not, I went in the office after my brother was killed.

Q. Where did you find his body?

A. His body was lying right in the door, with his feet right in the doorway like that.

Q. Did you see any other bodies in that office?

A. Yes, sir, I seen one more body there.

Q. Who was that?

A. Mr. Bouchillon.

Q. Where was he?

A. He was— there was a round table sitting in the center of the office and there was a table sitting here at the end of the office, it looked like he had been sitting on a chair and fell over like that (witness indicating) on a piece like that was on the table. I picked up my brother in my arms like that (witness indicating) I was the first to get in there after it all happened and after my mother came running to the door and she was crying, she says, oh, she says, they have killed my poor boy.

Q. Don't state what she said.

A. She was excited and the rest of us— I couldn't realize he was dead and I raised him in my arms and I noticed a little knot about an inch and a half above his eye on his head. At first I thought it was
447 a bump, but after when I seen the blood on my arm I seen he had been shot in the back of his head, there was a hole in the back of his head back here (witness indicating) and it came out here over his eye, (witness indicating) then I looked and I seen he was shot all to pieces, I hardly knew

then he was dead, I just thought may be, you know, he was not, and I laid the body down and I placed his hands like that, and I seen this other man and I went and took his leg down and straightened him out all by myself, there was nobody else in there, but before I got out of there Dr. Brumfield and several other men came in and Dr. Brumfield kicked his feet out of the way just like that (witness indicating). He walked in the office door and looked in the drawers and ran amongst the papers like that.

Q. Who did that?

A. I don't remember who else done it except Dr. Brumfield, I remember him.

Mr. Talley:

I would like to urge the same objection to this testimony as I did to her testimony a while ago, what Dr. Brumfield did in the office?

448 Mr. Higgins:

If your Honor please, these men all came together.

Q. They searched the office after these men were killed?

A. Yes, sir, they were running through the drawers taking out all the papers, running around.

Q. Did you see any guns there at the time you were there?

A. No, sir, I did not.

Q. Now, what was this thing you found on your brother's head as you have described an inch and a half above his eye, what was that?

A. It didn't come through, it was a little knot, I laid my hand over it like that, and it felt hard, it didn't

come through though, it was a small little knot there, right there (witness indicating).

Q. Could you see what it was?

A. No, I couldn't see what it was, it was underneath the skin, but I could feel it, I thought he had hit his head against something until I seen my dress was all over with blood and I seen he was shot back there.

Q. Shot where?

A. Back in the head somewhere. I didn't know until I had him in my arms and my dress was getting all full of blood, that is how I came to see he was shot instead of it being a bump that he had hit himself somewhere.

449 Cross Examination.

By Mr. Miller:

Q. Mrs. Melancon, you stated I believe you saw Mr. Sibley there?

A. Yes, sir.

Q. Right up with Wiley Macgee?

A. Yes, sir, he was walking with Wiley Macgee, right by Wiley Macgee and off a little ways this way. (Witness indicating.)

Q. Do you know who the other two were?

A. No, sir, I don't know the other two.

Q. Had you known Mr. Sibley before that?

A. Yes, sir, I had seen him around Bogalusa for a long time.

Q. And you state positively he was there right alongside of Wiley Macgee?

A. Yes, sir, he was walking right along with him—not aside of him—

Q. I mean he was right close to him when the shooting took place, that is what you said, wasn't it?

A. Yes.

Q. Now what was said, if anything, before the shooting?

A. By whom?

Q. By anybody right there in front of the office?

A. The first thing I heard, I heard my brother's voice, I recognized his voice, he says, what does this mean, what do you fellows want, and Wiley Macgee says, we want you Lem, he didn't say it sharp, he said it slow like.

Q. Did you hear anybody shoot from the office, off from the direction of the office?

450 A. No, sir.

Q. Were any shots fired from the office at all so far as you know?

A. No, sir.

Q. You don't know?

A. No, sir, if there was any firing from there I never heard it.

Q. How long did this shooting last, how long was it going on, how long did it take?

A. Must have taken from ten to fifteen minutes.

Q. Do you mean to say people were shooting there for ten to fifteen minutes?

A. No, sir, I don't think they was, the killing was all over and some of the men gone in less time than that, it was done awful quick.

Q. You stated the shooting probably didn't take more than ten or fifteen minutes?

A. Probably it didn't take any longer than that for the shooting but they were around there for sometime.

Q. I am talking about the shooting itself, what was that you said about the china tree at the corner of your father's house?

A. I said there was a china tree near there when John Whittington pushed my sister up against it.

Q. At your father's house?

A. Yes, sir.

Q. How did you get around to your father's house?

A. I came running back through this two story house, and when I got to this porch I seen her and her sister wrestling with this fellow begging them
451 not to shoot my brother.

Q. Your father lives in a different place and with a different yard?

A. Yes, sir.

Q. And this was in your father's yard that this happened?

A. There was a yard between, my father's house is here and here is the yard (witness indicating) and there is a big two story house and it was right here in this yard between the big house and the little house.

Q. It wasn't in Lem Williams' property at all?

A. No, sir.

Q. And who was it that this man pushed up against the tree?

A. Jim Williams' wife.

Q. Jim Williams' wife?

A. Yes, sir.

Q. Any other ladies there outside of Jim Williams' wife and yourself?

A. Mrs. Lem Williams.

Q. This happened after you ran in the office?

A. No, sir, that was before I went in the office.

Q. You say you ran in the yard?

A. That was before the shooting was quite over.

Q. You say you ran in the yard by the boat, didn't you?

A. Yes, sir.

Q. Any men standing there by the boat?

A. No, sir, not right by the boat, they were more over to the center and around my brother's office.

Q. But there was no one at the boat?

452 A. I didn't see any one at the boat, I was standing at the end of the boat and there was not anyone down on that side.

Q. Then you saw this shooting and you turned and run out of the yard and through the boarding house, is that correct?

A. What is that?

Q. After you saw this shooting you turned and went out of the yard and went through this boarding house next door?

A. Yes, sir.

Q. Out to the back?

A. To the back door, didn't go out.

Q. You didn't go out and you saw Jim Williams?

A. Yes, sir.

Q. There was not any shooting going on at that time, hadn't it all been through?

A. Had it all got through?

Q. Yes, the actual shooting of guns and pistols?

A. Well, there was so much going on when I hollered and asked him to run that they were going to kill him.

Q. Where was he?

A. The little office was a little low place, and he was standing back here, stood right at the window, about like that (witness indicating) he was just standing looking.

Q. In the office?

A. No, on the outside of that little window,

453 just standing there looking as if he didn't know what to do, standing just like—

Q. That is the time you told him to run?

A. Yes, sir.

Q. And he didn't have any gun?

A. No, sir, he didn't.

Q. Didn't have that little 22 rifle?

A. No, sir, he didn't have anything in the world in his hands.

Q. Now, we have a little map here that somebody has drawn. Here is the gate (Counsel indicating) that goes into his place, here is the office, here is the garage, that is the house where Lem Williams lived, do you recognize that house, and here is the boarding house next door, and this is Columbia Road running up and down, do you recognize the lay of the land there?

A. Yes, sir.

Q. Now then, just turn around this way, now this is the big boarding house next door?

A. Yes, sir.

Q. Now where was it your father lived, right here? (Counsel indicating.)

A. Yes, sir, there was a yard you see between these houses —this house and this house over here where my father's house is (witness indicating).

Q. Then where they pushed your sister in law was away over here?

A. No, sir, in this yard by that gate.

Q. In here by the gate on your father's pre-
454 mises?

A. Yes, sir, this side, well this yard was a wide yard and it was behind, this yard was behind this big house and the little house.

Q. It was in this yard?

A. It was in this yard.

Q. Now, where was the boat?

A. The boat was sitting just as well as I can tell by this, the boat was long and it was sitting right there a little bit to the end coming out this way.

Q. So you stayed there—?

A. It seems to me like this house wasn't on there from this office though—

Q. You stood there and saw the shooting done right in front of the office building?

A. Between this little house and the boat.

Q. And you could see your brother come to the door?

A. No, sir, I couldn't see him.

Q. Just heard him?

A. Just heard him.

Q. Then you ran back through here and out the front way and came out through this house and saw him standing—?

A. By that window, yes, sir.

Q. And then you came back again and where did you go from there?

A. Came back through this big house, came running all the way through and when I got to this
455 porch I seen just like I told you, that was in this yard on the inside, there was a chimney in my father's yard, a little round one by this gate here.

Q. And then you came back again and tried to get into there?

A. Into this gate.

Q. Who was there besides your sister in law?

A. Mrs. Jim Williams and Mrs. Lem Williams.

Q. They were both there?

A. Yes, sir.

Q. How long had they been there?

A. They were there when I came back.

By Mr. Johnson:

Q. You were alone?

A. Yes, sir, I was running all by myself.

By Mr. Miller:

Q. And they were at your father's house?

A. Yes, sir.

Q. Mrs. Lem Williams and Mrs. Jim Williams?

A. They were at this gate.

Q. They were trying to get out to the scene of the shooting?

A. No, sir, they were not trying, they were trying to keep them from shooting Jim Williams, begging them not to shoot him.

Q. Where had they been before that?

A. Where had they been before that?

Q. Yes?

456 A. I don't know where they were.

At this point a recess was taken until 2:30 P. M.

After recess:

Out of the presence of the Jury.

The Court:

Now, what was the nature of the statement the witness was about to testify to?

Mr. Higgins:

I understand that at the time of the shooting this man Bob Carson was there and he said—

The Court:

This is a statement of O'Rourke I understand.

Mr. Dufour:

No, the statement of Carson, not one of the defendants, and not an employee of the defendants.

Mr. Higgins:

At the time of the shooting, just after the shooting was over, right at the scene of the shooting, the wife and the sister of the deceased man were accusing this man Carson of murdering their brother, and he I understand, made the statement, "Well, we had to kill him, we had to get rid of him."

The Court:

Let me hear what authorities you have.

(Here follows the argument).

457 The Court:

It looks to me as if this ought to be a part of the res gestae, but you had better call the witness in and find out.

MRS. IDA MELANCON: recalled and examined outside of the presence of the Jury.

By the Court:

Q. Mrs. Melancon, you were about to make a statement of something Mr. Carson said to you, when did this occur?

A. After when I said about John Whittington shooting up my brother in this other gate, I ran back in front of the two story house and I started back into the house where my brother was killed and he was standing at the gate and he says: "Mrs. Ida, don't go in there," and he says, "we have asked you women to stay out of there" and he says " do what we tell you" and I says why did you fellows come here and kill poor Lem like that" and he says, " we had to come here and kill him,

we had to, and we done it," and I ran on up and went in there where my brother was.

Q. This was before or after you had been to the office and first found that your brother was lying dead?

A. That was before, I was on my way to his office.

Q. In other words, was this after the shooting when Carson made that statement to you?

458 A. Well it was just a few minutes I guess it was from the time I told you and when I came back through this house and was in this other yard, when this Whittington was shooting at my brother and then I ran back after they brought O'Rourke—I ran back over to this house after he came out and then I went on back to this other house, to my brother's house, the one that was killed, and he was standing by the gate.

Q. Well, had the crowd left the premises of your brother L. E. Williams?

A. Yes, some of them had gone, I didn't see as many there as when the shooting first started, there were some still standing there though.

The Court:

I will have to exclude that evidence.

Mr. Higgins:

We reserve a bill.

Mr. Higgins:

If your Honor please, we have prepared a written motion for subpoena duces tecum, asking for the production of the pay roll, papers and documents showing whether or not the parties named in the motion were in the employ of the Great Southern Lumber Company at the time of the killing on November 22, 1919.

Mr. Johnson:

If the Court please, we will bring all the
459 papers we have, but I don't believe the Great Southern Lumber Company keeps pay roll five or six years.

Jury brought back.

MRS. JIM WILLIAMS: witness, being duly sworn and examined on behalf of Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. Mrs. Jim Williams.

Q. Were you related to Lem Williams?

A. Yes, sir.

Q. Where were you living on November 22, 1919?

A. On Columbia Street.

Q. Where?

A. Second door from Lem Williams' place.

Q. What town?

A. Bogalusa.

Q. Will you kindly state to us what you know of the shooting that took place at Lem Williams place?

A. Yes, sir, I was in my back yard washing my baby's clothes at the time the shooting started, and I ran around the front to see what it was, Mr. Whittington came out and went after Mr. Williams, my husband,

and he went in the yard and started to shoot and my sister, she pushed the gun away from him and then he started to shoot again and I told him please not to shoot Mr. Williams, he had his hand up not to shoot him, and he shot, and I knocked the gun up to keep him
460 from shooting Mr. Williams, and he shoved me, he shoved me and slapped me on the chest, and he says, "old woman if you don't get out of that, we will do you just the same way."

Q. Who was that?

A. Johnnie Whittington.

Q. Now how long after you heard the shooting was it when you got to where Mr. Whittington was?

A. It was right in the vacant lot, right next, the second next door from Mr. Williams' place, right there at that place.

Q. How far did you have to go from where you were washing to the place where he was?

A. Well, it was just the second house from his house, that is all.

Q. When Mr. Whittington shot at your husband did you strike him?

A. No, sir, if I hadn't slapped the gun away he would have killed him.

Q. Do I understand that at that time your husband had his hands up?

A. Yes, sir, he had both hands up.

Q. Did you recognize any of the men in Mr. Williams' yard that day?

A. No, sir, I couldn't tell you, and then
461 when I wanted to come back and saw Mr. Williams in his place after he was shot, Bob Carson stopped us and said—

Mr. Dufour:

Wait a minute. Now if your Honor please, she was asked a question and she started up a story— I mean a story in the sense of a statement.

By Mr. Higgins:

Q. You started to go in the yard?

A. Yes, and he wouldn't let me go in.

Q. Who wouldn't let you go in?

A. Bob Carson wouldn't let me go in.

Mr. Dufour:

Wait a minute.

The Court:

You are instructed to say nothing about what he told you.

A. (Witness continuing) He told me—

Mr. Dufour:

Wait a minute.

The Court:

You will have to understand Madam you will have to obey the orders of the Court. You cannot tell what he told you.

By Mr. Higgins:

Q. Don't tell us what anybody else said. Was any shooting going on at that time?

A. No, sir.

Q. At the time you wanted to get through where Mr. Carson was?

462 A. No, sir, no shooting then.

Q. The shooting was over then?

A. Yes, sir.

Q. How long after the shooting was it that you attempted to get in the yard?

A. Oh, not so long, right after.

Q. How many minutes or seconds?

A. I can't exactly tell how many seconds, but it was right after they killed Mr. Williams.

Q. Well, was it ten minutes, or twenty minutes, or thirty minutes, or what?

A. Just about.

Q. About what, how many minutes?

A. Well, I don't know, I can't exactly tell you how many minutes, but it was right after Mr. Williams was killed.

Q. How far did you have to go from the time you started to the time you met Bob Carson?

A. Oh, just about a second, that is all.

Q. How far apart are those houses?

A. They are just a little distance apart, one lot between.

Q. How much does a lot measure, about?

A. I can't exactly tell you, but there is just a lot there between the house.

Q. Well, how many people were around there at the time you met Carson?

A. Oh, there were a lot of people, I can't tell you, there was a gang of people.

463 Q. Was there anybody around there with guns at that time?

A. I saw Brumfield, he was standing out there, and he had a gun, he was standing there and holding it by the barrel.

Q. Now, see if you can fix the time with reference to the number of minutes. Was it a very long period of time from the time the last shot was fired up to the time you got to the gate where Carson was?

A. Oh no, just a small time, I don't know exactly, I don't exactly know the time. I know it was when I went there, just the time it took to run from one place to the other.

Q. Where was Carson standing?

A. He was standing right at the big gate.

Q. What big gate?

A. The big gate to Mr. Williams property.

Q. Was he on Mr. Williams property or on the street?

A. He was standing at the gate, he was leaning against the gate post.

Q. How far was he standing from the body of Lem Williams at that time?

A. Oh, about as far as from here to the door over there.

Q. How far was he standing from the body of O'Rourke at that time?

A. Well, I don't know, I think O'Rourke had done gone at that time.

464 By Mr. Dufour:

Q. Mr. O'Rourke had done gone, was that what you said?

A. Done gone.

Q. How far was he standing from the body of Bouchillon?

A. Bouchillon was right in the office with Mr. Williams.

Q. How far was he standing from the body of Gaines at that time?

A. Gaines was out in the garage.

Q. Did you see Mrs. Melancon at the time you saw Bob Carson?

A. Yes, sir.

Mr. Higgins:

If your Honor please, I am going to put the same question, Mr. Dufour will make the same objection and

the Court will make the same ruling as to what Carson said.

By Mr. Higgins:

Q. Now, don't answer this question at all. Did Bob Carson at the time you met him as you rushed to the gate make any statement to you or to Mrs. Melancon?

Objection: Mr. Dufour:

We object on the ground that the alleged statement is no part of the res gestae, and any statement of Bob Carson is not binding upon these defendants.

The Court:

I understand this to be the same statement
465 and the same objection as made in the examination of Mrs. Melancon and I will exclude the evidence.

Mr. Higgins:

To which ruling we reserve a bill.

By Mr. Higgins:

A. A minute ago you said O'Rourke had done gone, what did you mean by that?

A. Well, when he passed, when Mr. Whittington was kept from shooting Mr. Williams, O'Rourke passed and he said—

Mr. Dufour:

Now, if your Honor please, we object.

The Court:

Don't say what O'Rourke told you.

By Mr. Higgins:

Q. How did he pass, madam?

A. He just passed with some men, he said, you all got me do something for me.

Mr. Dufour:

I object.

By Mr. Higgins:

Q. Don't say what somebody told you. What was the matter with O'Rourke, if anything?

A. Well, he had blood on him, that is all I can tell you, on his face.

Q. Did you go into the office of Lem Williams?

A. I went later that night when they quit stopping me from going inside.

Q. Did Mr. Carson prevent you from coming in?

A. He wouldn't let me in, and after they all left I went in.

466 Cross Examination:

By Mr. Miller:

Q. This occurrence, Mrs. Williams, between Whittington and Jim Williams, took place at your father's house or at your house?

A. Sir?

Q. The occurrence between Jim Williams and Whittington that you have testified to, where did that take place?

A. Took place between my house and Mr. Williams house.

Q. Not at Lem Williams' house?

A. No, sir.

Re-Direct Examination:

By Mr. Higgins:

Q. (Counsel handing map to witness) This represents Columbia Road, this represents the two story hotel adjoining the property of your brother Lem Williams.

A. Yes, sir.

Q. This represents the property of Lem Williams?

A. This is the big gate.

Q. This is the residence of Lem Williams, this is his office, this is the garage. Now where is the house of Mr. Williams, John Williams, the father of Lem Williams?

A. That is the big house right there.

Q. This is the office, that is the garage, this is the big gate. Now where were you?

A. I was right at Mr. Williams' big gate.

467 Q. Where is Mr. Williams' place; down this way or over here? This is the big hotel and that is—

A. Mr. Williams' place is right there.

Q. I am talking about Mr. John Williams' place; is that where you were, at Lem Williams' father's place?

A. Yes, sir.

Q. Well now, where is that place situated, John Williams' house, how far is it from Lem Williams' property?

A. There is a big house midway of the fence along Mr. Williams' property—

Q. I am asking you about John William's place, Mr. John Williams, the father of Lem Williams; where is his home?

A. Well, that is where the big two story building makes the fence to Mr. Lem Williams' place.

Q. Did he live in this big house, or where?
A. He was living in the big house, yes, sir.
Q. On this side or the other side?
A. That side; he was living in the big house on that side.
Q. He lived in the house adjoining the right side of this big two story building?
A. Yes, sir.
Q. And you were staying there?
A. Yes, sir.
Q. Now where did you see Mr. O'Rourke?
A. Mr. O'Rourke was behind, right behind— he was gone into the two story building, you see there.
Q. He was in this yard (counsel indicating)?
A. Yes, sir.
468 Q. And where was Mr. Whittington?
A. Mr. Whittington was right between the lot of Mr. Williams and the big two story building, at the front of the gate, and the china trees are there (witness indicating), and when he hit me, he hit me on to the china tree and says, "If you women don't get out of here, we will done you up the same as them."

E. J. DREYFUS, sworn and examined as a witness on behalf of the Plaintiff, testified as follows:

Direct Examination:

By Mr. Higgins:
Q. What is your name?
A. E. J. Dreyfus.
Q. Did you know a man by the name of Lem Williams?
A. Yes.

Q. Where do you live?
A. I live here in New Orleans.
Q. Where were you living in November, 1919?
A. Bogalusa.
Q. Did you know Lem Williams?
A. Yes.
Q. How long had you known him?
A. Oh, I guess four or five years.
Q. What was his general reputation in Bogalusa for peace and quiet?
A. Very good.
Q. What was your business in Bogalusa at
469 that time?
A. General store.

Cross Examination:

By Mr. Talley:
Q. Mr. Dreyfus, you said Lem Williams' character was good. What kind of a physical man was he?
A. He seemed to be a very good man.
Q. Wasn't he a good wrestler and fighter?
A. Well, I suppose so, at times.
Q. Did you ever attend any of those exhibitions for pay that he used to give on Columbus Street, in one of those buildings?
A. (No answer.)
Q. Do you know of any such exhibitions, where he had wrestling matches?
A. No, I did not.
Q. Didn't know of them?
A. (No answer.)

By Mr. Dufour:
Q. Mr. Dreyfus, you lived in Bogalusa, you say on

the day of this shooting. You had lived there for some months previous to that, hadn't you?

A. Yes, sir.

Q. Some years previous to that?

A. Yes, sir.

Q. And you were familiar with the general conditions existing in the town?

A. Yes, sir.

470 Q. Know all about them?

A. Well, in general, not to say all, but mostly, in general.

Q. Did you know all about the labor disturbances existing there?

A. I did, yes, sir.

R. L. PITTMAN, sworn and examined as a witness on behalf of the Plaintiff, testified as follows:

Direct Examination:

By Mr. Higgins:

Q. What is your name?

A. R. L. Pittman.

Q. Where did you live in November, 1919?

A. Bogalusa.

Q. What position did you hold there?

A. Fire Chief.

Q. Will you state whether or not there was any fire at Bogalusa on November 22nd, 1919, about between the hours of 12:00 and 1:00?

A. I don't think so.

Q. Were you summoned to any fire during that time?

A. I couldn't say positively about the date— no, sir, I can't— I don't remember of having any.

Q. Do you recall whether or not you heard the siren whistle of the Great Southern Lumber Company blown about 1:00 o'clock on November 22nd, 1919?

A. Well, I remember it blowing, yes, sir.

Q. Did you bring out the fire fighting ap-
471 paratus?

A. No, sir.

Q. Why did you not bring it out?

A. There was no signals given.

Q. Was not a signal for fire given?

A. No, sir.

Q. What did you do after you heard this whistle blown?

A. I stayed at the station I reckon for thirty or forty minutes, something like that, may be longer, heard a lot of shooting and went down to where the trouble was.

Q. You went down where the trouble was?

A. Yes, sir.

Q. What was the usual fire signal there?

A. Well, we have different signals, you know for different parts of the town.

Q. What kind of signal was given to indicate a fire?

A. When?

Q. Any time?

A. Now?

Q. Any time, November 22nd, 1919?

A. Well, they got a regular siren whistle, you know, that they give the alarm with.

Q. Where is that whistle located?

A. Great Southern Lumber Company.

Q. Property of the Great Southern Lumber Company?

A. I suppose it is, and after they blow their siren, the alarm whistle, it follows, gives the signals where the fire is at.

Q. And the whistle you heard blown, the signal that you heard blown that day is not the fire alarm? Is that right?

472 A. Yes, sir.

Cross Examination:

By Mr. Dufour:

Q. How long have you been fire chief, Mr. Pittman?

A. I have been chief of the fire department for about five years.

Q. Live in Bogalusa?

A. Yes.

Q. On the day of this killing, and some time prior thereto?

A. Yes, sir.

Q. This fire alarm whistle is blown when there is a fire by arrangement between the city and the Great Southern Lumber Company?

Objection: Mr. Higgins:

Unless he can testify of his own knowledge, I object.

Q. What is the signal in the city of Bogalusa for a fire?

A. The signal therefore is blown from the saw mill, that is, from the whistle.

Q. Is your department instructed when this fire whistle is blown, that they shall respond to that signal?

A. Well, we don't have to do it every time. Sometimes we get it over the telephone, sometimes through the Game Fire alarm. We didn't have it at that time.

Q. But at that time, you had no fire alarm system, except that whistle?

A. That was how we were notified there
473 was a fire.

Q. Do you know how the whistle was formed, what the form of notice was to the Great Southern Lumber Company?

A. No, sir, I don't.

Q. Suppose a fire took place near your engine house, what signal would your people get that there was a fire?

A. Sometimes get it over the telephone.

Q. You would get it over the telephone, but how would the public be advised that there was a fire?

A. Well lots of times they didn't know anything about it.

Q. Well, under what circumstances was that whistle blown; would the public telephone the Great Southern Lumber Company that there was a fire?

A. Yes, sir.

Q. So that if anybody saw a fire, the practice was for him to telephone the Great Southern to sound the fire whistle?

A. Yes, sir.

Q. And tell them in what part of town the fire is by a signal?

A. Yes, sir.

Q. I suppose the signal in what part of the town it was was one blast, two blasts, three blasts, and so forth?

A. Yes, sir.

Q. During all of your connection with the fire department, was that the means by which the fire alarm was given?

474 A. Yes, sir.

Mr. Higgins:

We are going to call for Major Guerre at this time for the purpose of cross-examination, under the act giv-

ing either party litigant the right to cross-examine an opposite party without vouching for the credibility of the witness.

Mr. Dufour:
I don't understand that is the rule in the Federal Court.

The Court:
I will rule that in a Federal Court you cannot call him as under cross-examination.

Mr. Higgins:
I reserve a bill.

Mr. Higgins:
I am going to call each of the defendants for the same purpose, and it is understood the same objection will be made, your Honor will make the same ruling, and I reserve my bill of exceptions.

Mr. Dufour:
I will ask your Honor to instruct the jury at this time as to what that means.

The Court:
Under the state law, rule of evidence and practice, either party to a litigation can call the other adverse party and cross-examine him, without being bound for the truth of his testimony and without vouching for his veracity, which is the rule as to other witnesses called by either party. Now, there being such a statute in the state Courts, the plaintiffs in this case desire
475 to avail themselves of it, and my ruling is that statute does not apply to this Court, and therefore, if they put any of the defendants upon the stand,

they put them on the stand just as they would any other witness, for whose veracity they vouch, and whom they would have to examine in the ordinary way, without leading questions. I might say that the basis of that holding is that when a party puts a witness upon the stand, he, under the law, is presumed and held to vouch for the truthfulness and veracity of that witness, and he is not allowed to ask him leading questions. Now there is an exception in the state Courts, by reason of this state statute, which says that an adverse party may be put on—the defendant may be put on by the plaintiff and the plaintiff may be put on by the defendant, without vouching for their veracity and retaining to themselves the right to contradict that witness, which they would not have in ordinary cases. Now that practice is wanted to be applied in this case, and I have ruled that statute does not apply.

Mr. Higgins:

To which ruling, counsel reserve a bill, and, as I say, will go through the formality before stated. Plaintiff calls for J. B. Lindsley to be examined under this state act of 1908.

476 Stipulation:

It is stipulated among counsel that this ruling is made as if the witnesses had been sworn and their testimony tendered as on cross-examination.

Mr. Higgins:

Same applying to the witnesses Major Guerre, J. B. Lindsley, Harold H. Wilcox, Louis Levert and David Bienn.

Objection: Mr. Dufour:

We object to the calling of these witnesses by the plaintiff and putting them on the witness stand for cross-examination under the terms of the said statute indicated on the ground that that statute is a rule of procedure which is not followed in or binding upon the federal Courts, and that they must tender and examine all witnesses under the rule and practice in this Court.

The Court:

I sustain the objection.

Mr. Higgins:

We reserve a bill.

Offer: Mr. Higgins:

Counsel for plaintiff offers, produces and files in evidence the map of the locus inquo, and marks same for identification "Plaintiff-1."

Objection: Mr. Dufour:

Counsel for defendants objects on the ground that there is no proof that this is a correct map, or that the measurements indicated thereon are correct and accurate, or as to who made it.

Mr. Higgins:

We are not producing this map to prove this is five or twenty-five feet, but simply to identify
477 this sketch with the testimony of the witnesses who testified with reference to it and placed themselves on it, the positions they were in.

The Court:

If you have no testimony as to the accuracy of the map, then it means nothing except relative positions.

Mr. Dufour:

We will let it in if they disclaim that that map is intended to show correct measurements but that it is generally the locus in quo.

Mr. Johnson:

It was drawn from hearsay purely.

Mr. Higgins:

When I put Mrs. Williams on the stand, I will get her to say whether the measurements are correct.

Colloquy among Counsel.

Offer: Mr. Higgins:

Counsel for plaintiff offers, produces and files in evidence the sketch of the locus in quo, of the buildings and property, except the measurements designated thereon, and marks same for identification "P-1."

Mr. Dufour:

This having been generally identified by the witnesses as showing the relative positions of the varous buildings and streets, etc.

478 Offer: Mr. Higgins:

I want to offer, produce and file in evidence the original petition, supplemental petition No. 1, supplemental petition No. 2, the answer of the Great Southern Lumber Company to the original and supplemental petitions, the answer of Louis F. Guerre to the original and supplemental petitions, and the answers of J. B. Lindsley, Harold H. Wilcox, David Bienn, and Louis Levert to the original and supplemental petitions.

Objection: Mr. Dufour:

We object to the offer of these petitions, if it is intended that by the affidavits adjoined thereto they would have any probative force.

The Court:

The Court rules that there is no probative force to any of the statements made in the petitions, or any of the amended or supplemental petitions.

At this point the further hearing of the case was adjourned to the following morning, Friday April 24th, at 11:00 o'clock.

Friday, April 24th, 1925.

479 All parties in interest being present, the hearing of the case was this day resumed.

L. C. TRIM, sworn and examined as a witness on behalf of the Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. L. C. Trim.

Q. Where did you live during November, 1919?

A. Bogalusa.

Q. How long did you live there?

A. From December 24th, 1918, until that time.

Q. What was your occupation at that time?

A. First part of the year, I was employed on the plant, in the fire department of the Great Southern Lumber Co.

Q. Did you know a man named L. E. Williams?

A. Yes.

Q. We are investigating the killing of Mr. Williams on November 22nd, 1919. Will you kindly state what you know about this matter.

A. I didn't see the killing, but I was in the office a few minutes before it took place.

Q. Which office?

A. Mr. Williams' office.

Q. Did you notice any fire arms or any ammunition in there at that time?

A. There was none in the office.

480 Q. What other position, if any, besides the one you just named, did you hold while you were in Bogalusa?

A. General Circulation and Advertising Manager of the Bogalusa Free Press.

Q. Any other position?

A. No, sir, not at that time.

Q. Were you or were you not a member of a committee that ever called on Mr. Sullivan in reference to the trouble between the Union and the Great Southern Lumber Co?

A. Yes, sir.

Q. Now, when was it that you called on him?

A. I can't fix the date, but it was some time before the plant shut down. I can't fix the exact date.

Q. Can you estimate how long it was before the shooting?

A. Something like six weeks.

Q. Did Mr. Sullivan at that time make any statement with reference to the affairs between the company and the Union?

Objection: Mr. Dufour:

We object, if your Honor please, to something that took place before the plant shut down. In point of fact it was three months before.

Mr. Higgins:

That is testimony, counsel getting up and saying it happened three months before. The witness says it was six weeks and counsel gets up and says it was three months. I think it is relevant, anything Mr. Sullivan had to say with reference to the trouble be-
481 tween his mill and Mr. Williams, as tending to connect the company with this affair, particularly showing motive or purpose for the killing.

The Court:

I will admit the evidence.

Mr. Dufour:

We reserve a bill.

Q. Where did you have this conversation or hear this statement of Mr. Sullivan?

A. In his private office.

Q. Where was his private office?

A. In the office building of the Great Southern Lumber Co.

Q. What statement did he make?

A. We entered—of course he knew our men, because we had an appointment with him—we entered the office and he screwed round and says, "Gentlemen, I want to say a word; I want you to distinctly understand we are not going to recognize any union." That was the first sentence.

Q. Did you ever work for the Great Southern Lumber Company in the capacity of watchman at the gate?

A. Yes, sir, in the absence of the regular watchman.

Q. How long was that prior to the time of the killing?

A. Well, to the best of my knowledge, it was some time in July, towards the first of July, somewheres around the first of the month, as well as I remember.

Q. From whom did you receive your instructions, if any?

A. Bennie King.

482 Q. By whom was he employed?

A. Great Southern Lumber Co.

Q. In what capacity?

A. As fireman, chief of the plant fire department.

Q. What instructions, if any, did you have?

A. To allow no one the entry of the works, unless I found out who they were and what their mission was.

Q. At the time that you were on guard at this gate of the company's property, did you ever have occasion to see Wiley Magee?

A. Yes, sir.

Q. Where?

Objection: Mr. Dufour:

If your Honor please, we submit—

A. At the gate.

Mr. Dufour:

(Continuing)—where this man saw Wiley Magee in July, is not relevant to show in this case that on November 22nd we had a lot of gunmen in our employ. I cannot see the relevancy. We object on the ground that what happened at that time is irrelevant and inadmissible.

Mr. Higgins:

I take it, if we can show that these men were regularly employed by the company, that the defendant company would then have the obligation or duty put upon them to show that at the time of the killing they
483 were no longer connected with the company.

(Here follows argument.)

The Court:

I am going to admit the testimony.

Mr. Dufour:

We reserve a bill.

Q. I ask you the question again, did you or did you not see Wiley Magee in the company's property at the time you were doing guard duty at the company's gate in the company's employment?

A. Yes, sir.

Q. Can you state whether or not he had a gun at that time?

A. I saw no gun.

Q. Did you or did you not admit Wiley Magee to the company's property at that time?

Objection: Mr. Dufour:

We object.

A. He was already on the property when I accosted him.

Q. Did you put him off or let him remain on the property?

Objection: Mr. Dufour:

We object.

A. After he explained he was an official of the company, I let him go ahead.

Q. What was your answer?

A. After he explained he was one of the officials of the company, I permitted him to go ahead.

Q. Did you or did you not see Major Guerre on the day of the shooting?

484 A. Yes.

Q. Where?

A. He was standing on the pavement by the company's office, after the shooting.

Q. What did he have in his hand?

A. He had a gun in his hand.

Q. What kind of a gun?

A. Looked like a shot gun.

Q. How long after the shooting was it that you saw Major Guerre?

A. About twenty minutes, possibly.

Q. Where did you say you saw him?

A. He was standing on the pavement at the corner of office building yard, which is just across Fourth Street from the commissary building.

Q. Who runs that commissary building?

A. Belongs to the Great Southern Lumber Company.

Q. Was Major Guerre standing on the company's property at the time you saw him?

A. Yes.

Mr. Dufour:

You say he was on the sidewalk?

Mr. Miller:

Public sidewalk?

Q. Do you know of your own knowledge whether Major Guerre at that time was in the employment of the Great Southern Lumber Company?

A. Yes, sir.

Q. Now, after the shooting, did you go back to the scene of the killing?

485 A. No, sir.

Q. Were you present at the scene of the killing during the time of the shooting?

A. No, sir.

Q. How long had you known Lem Williams?

A. I had known Lem Williams practically all the year.

Q. What was his general reputation at Bogalusa for peace and quiet?

A. Good.

Q. I want to ask you this question, and his Honor can rule on it—don't answer this. What was the general reputation of Wiley Magee in Bogalusa for peace and quiet?

Objection: Mr. Dufour:

We object.

The Court:

I sustain the objection.

Q. What was the general reputation of Bob Carson in Bogalusa for peace and quiet—don't answer the question.

Mr. Higgins:

It is understood the same objection and the same ruling will be made and the same bill reserved.

Q. Did you know a man by the name of O'Rourke?
A. Yes.
Q. Did you know a man by the name of Tom Gaines?
A. Yes.
Q. What was their general reputation in Bogalusa for peace and quiet?

486 Objection: Mr. Dufour:
We object as not relevant to any issue in this case. Same ruling and same bill of exceptions.

The Court:
I have not ruled on the question of these other men. The question is a slightly different one. I would like to hear from either of you.

Mr. Higgins:
My idea is this: The answer sets up these men had banded together for the purpose of resisting arrest, sets up these men had terrorized Bogalusa, that they were law violators. I want to simply establish their general reputation for peace and quiet in the community was good.

Mr. Dufour:
We object on the ground the question is irrelevant, immaterial and inadmissible to any issue in this case.

The Court:
I will let the witness answer.

Mr. Dufour:
We reserve a bill.

Q. What was the general reputation of O'Rourke for peace and quiet in Bogalusa?

A. It was good.

Q. What was the general reputation in Bogalusa of Tom Gaines for peace and quiet?

A. Good.

Q. What was the general reputation in Bogalusa of Mr. Bouchillon for peace and quiet?

A. Good.

Q. What was the general reputation of Jim
487 Williams in Bogalusa for peace and quiet?

Objection: Mr. Dufour:

We object. That is not relevant to any issue in this case, what the reputation of one of the witnesses is.

The Court:

Objection overruled.

Mr. Dufour:

We reserve a bill.

Q. What was the general reputation of Armand Bourgeois in Bogalusa for peace and quiet, Armand Bourgeois?

A. I don't recall Armand Bourgeois.

Q. You don't know him?

A. I don't know him, but Bouchillon was all right.

Q. No; Armand Bourgeois; A-r-m-a-n-d B-o-u-r-g-e-o-i-s.

A. I got you now.

Q. What is your answer?

A. Good.

Q. Did you know a man named Clay Richau?

A. Yes.

Q. What was his general reputation in Bogalusa for peace and quiet?

A. Good.

Q. Do you know a man named Arthur McAlister?
A. Yes.
Q. What was his reputation in Bogalusa for peace and quiet?
A. Good.
Q. At the time of your visit to Lem Williams' office prior to the killing, whom did you see there?
A. Saw Lem Williams.
Q. Did you see anyone else?
488 A. Norman Simmons.
Q. Who else?
A. Jim Spier.
Q. Who else?
A. That is all.
Q. What time did you go there?
A. About 12.00 o'clock.
Q. What was Mr. Williams doing at the time you were there?
A. He was writing a letter on the typewriter.

Cross Examination.

By Mr. Miller:
Q. Where were you at the time of the shooting?
A. On the north side, above the creek.
Q. What place on the north side?
A. At the little lunch counter right behind Hall's drug store.
Q. Right behind what?
A. Hall's Drug Store. I think they are the proprietors, or were at that time. There was a little lunch counter. I was in the lunch counter.
Q. Getting your lunch?
A. Distributing the new issue of papers, taking the old ones up and making my collections.

Q. What paper?
A. Bogalusa Free Press.
Q. Is that John E. Rowan's paper?
A. The Central Trades Council paper.
Q. He had it and ran it, didn't he?
A. No, sir, not at that time he didn't.
489 Q. Who did?
A. Central Trades Council.
Q. Who was the editor?
A. Lem Williams.
Q. Rowan was the editor afterwards?
A. No, sir.
Q. Or before that?
A. Before.
Q. He was the editor of that paper at one time, wasn't he?
A. He got out one or two issues.
Q. He had left town at that time, hadn't he?
A. I don't know if he had or not.
Q. Did you get out any issues?
A. Sir?
Q. Did you get out any issues?
A. No, sir.
Q. How many issues were published altogether, do you know?
A. No, I don't remember.
Q. Well, do you know about—
A. About what?
Q. Do you know about how long the paper had been in existence and who was running it?
A. I think about twenty-three or twenty-five issues up until the time this took place.
Q. How often was it published?
A. Once a week.

Q. Did Lem Williams run it from the time it was established until Rowan took hold of it?

A. The Central Trades Council was running it.

Q. Lem Williams managed it or edited it?

A. Yes.

Q. Did he do it from the time it was established until Rowan took hold of it?

A. He did not.

490 Q. He did not?

A. When he took hold—

Q. Who; Rowan?

A. No, sir; Mr. Rowan—

Objection: Mr. Higgins:

I am going to object to any further questions about the newspaper issues because we didn't bring that out on direct examination.

Q. Now where did you go from the lunch counter?

A. I went to the shops; I had to deliver some papers to the shops, and I knew I could catch them at the lunch hour.

Q. That was the railroad shops?

A. Yes, sir.

Q. You distributed the paper around there?

A. I had some subscribers in there.

Q. How long did that take you?

A. Just a few minutes.

Q. Where did you go from there?

A. I went back to the printing office.

Q. Where was the printing office; how far from the shops?

A. I don't just recall; some two or three blocks. I don't remember just exactly. It was just a minute's walk.

Q. You had to cross the right of way besides going two or three blocks from the shops, you had to go across the track?

A. It is right across the railroad track; only took about a minute to do it.

Q. The railroad track was pretty near a
491 block wide, wasn't it?

A. No, sir; not as much as a block wide.

Q. From the shops to the front street, isn't it a block?

A. Well, from the shops by the front street, may be a block, this side of the railroad right of way.

Q. That is all railroad property?

A. Certainly.

Q. You make a description then between the right of way and property?

A. Certainly.

Q. Now from there where did you go?

A. I went to the south side.

Q. How far is that from the office?

A. I don't know the exact distance.

Q. Three quarters of a mile?

A. No, sir.

Q. Half a mile?

A. I don't think it is that far.

Q. You don't think it is that far?

A. No, sir; about five or ten minutes drive.

Q. Were you in a car?

A. No, sir.

Q. Walking?

A. Horse and buggy.

Q. And you did all that in twenty minutes, did you?

A. Yes, sir.

Q. Got through at the lunch counter, went from there to the shops—

A. I was finished with the lunch counter,
492 I was ready to leave the lunch counter—

Q. And you went to the shops and distributed the paper?

A. Distributed the paper over there and went back.

Q. Back to—

A. Back to the south side.

Q. Now from the lunch counter to the shops, you walked, didn't you?

A. Yes, sir, very fast.

Q. Went down to the south side; that was twenty minutes after the shooting?

A. Yes, sir.

Q. And you saw Major Guerre in front of the company's office, didn't you?

A. Yes, sir.

Q. On the public street?

A. He was on the pavement, standing right at the corner of the office yard.

Q. Well, that is a public street, isn't it?

A. He was on the pavement.

Q. Well, you know whether it is a public side walk or a public street, don't you?

A. (No answer.)

Q. Isn't it?

A. It is right adjoining the fence of the company's commissary or office yard.

Q. Outside of the fence?
493 A. Outside of the fence.

Q. On the sidewalk?

A. Yes.

Q. And you don't know whether that is a public street or not?

A. (No answer.)

Q. Who was with him?
A. I don't know who he was.
Q. Was anybody with him?
A. Yes.
Q. Did you see anybody else there that you knew?
A. No one but Major Guerre.
Q. How many men were with him, if any?
A. One.
Q. Did you meet anybody else on the street as you drove over from the north side?
A. From the north side?
Q. Did you meet anybody else on the street or see anybody else on the street?
A. I saw Rogers on the street.
Q. He the only one you remember?
A. That was the only one that was there when I arrived. In a few minutes Mr. (name inaudible) drove up, and about that time my wife—
Q. Where did you stop?
A. I was on the corner at the commissary.
Q. That is across the street from where Major Guerre was?
A. Yes, sir.
Q. You say he had a gun?
A. Yes, sir.
Q. What kind of a gun?
A. Looked like a shot gun.
494 Q. The man with him have any weapon?
A. I saw none.
Q. You were a union man at that time, or were you not?
A. Yes, sir.
Q. Are still?
A. Yes.

Q. What occupation were you engaged in during the time you were in Bogalusa?

A. I was employed by the Great Southern on the plant fire department at first.

Q. Plant fire department; and afterwards?

A. After I was dismissed, I became agent for this paper.

Q. Well, you were employed at the gate for a time, were you not?

A. Only one day at that gate. I had one week at another gate.

Q. You were a union man then?

A. I carried a card.

Q. Did the company know you were a union man when they put you at the gate?

A. No, sir; there was not any organization there that I know of at that time.

Q. At that time there was not any organization?

A. Not that I know of, at the time that I was at the gate.

Q. Then that was before there were any labor troubles in Bogalusa, wasn't it?

A. Yes, sir.

Q. That is the time you saw Wiley Magee around there?

495

A. Yes, sir.

Q. He told you he was an official of the company?

A. Yes.

Q. Did he say he was president, vice-president, or what kind of official?

A. No, sir.

Q. Just said he was an official?

A. One of the officials.

Q. Did he say he was an official or an employee?

A. He said "We are officials of the company."

Q. And you say there had been no labor troubles or anything of that sort in Bogalusa before that time?

A. No, sir; not to my knowledge.

Q. And had there been before that time any question raised by the company or with the company—I mean the Great Southern Lumber Company—in reference to the employment of union men?

A. Not that I know of.

Q. You don't know of any?

A. (No answer.)

By Mr. Dufour:

Q. You say you went to Lem Williams' office on the day in question about 12 o'clock, or a little before?

A. As near as I could fix it.

Q. A little before 12.00 o'clock, I believe you said.

A. I said about 12.00 o'clock.

Q. How long did you remain there?

A. Just a few minutes.

496 Q. What would you call a few minutes?

A. Just long enough to receive some money he had received through the mail, which included a money order, and take up my old issue and leave him the new issue.

Q. And you only saw the three men whose names you have mentioned?

A. Yes, sir.

TOXIE RAY TRIM, sworn and examined as a witness on behalf of the Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. Toxie Trim.

Q. Toxie what?
A. Trim.
Q. I thought you were named Ray?
A. No; Ray is my middle name.
Q. Are you related to L. C. Trim?
A. Yes, sir; his son.
Q. Where were you living during November 1919?
A. Bogalusa.
Q. We are investigating the shooting that took place at Lem Williams' residence and garage on November 22nd, 1919. Will you state what you know about that matter?

497 A. When the whistle was blown, or where I was from the time the whistle was blown until after, or just what I saw while I was at Mr. Williams' office?

Q. State what you know about it; just start from the beginning when you heard the whistle blow, and continue right on.

A. At the time the whistle blew, I thought it was a fire, so I went to the fire station to ask where the fire was, and they told me if I knew what was good for me, I would go—

Mr. Talley:
Don't tell what somebody said.

A. (Witness continuing)—so I went on to look for my father. I thought he would be up at Mr. Williams, because he had charge of the distributing of the paper—I asked Mr. Williams where my father was and he said he was in the office—

Q. Don't say what anybody told you.

A. (Witness continued)—and I went in the office and Mr. Williams was writing a letter, and I asked him where my father was—

Mr. Dufour:

I think counsel had better ask the witness questions instead of letting him run on like this.

Q. Did you see Mr. Williams in his office?

A. Yes, sir.

Q. What was he doing?

A. He was writing a letter.

Q. Who else did you see there while you
498 were there?

A. There were several men in the office, but I didn't notice who they were, because I was talking personally to Mr. Williams in the door. He was writing a letter right close to the door where I could see him.

Q. How long did you stay there?

A. Well, I was there about two minutes, I guess.

Q. You say you heard the whistle blow?

A. Yes.

Q. What whistle?

A. It was the whistle that was used in giving the fire alarm.

Q. Where was that whistle?

A. It was in the mill of the Great Southern Lumber Co.

Q. Did you notice whether the signal given was the usual fire alarm or different?

A. It was different; it wasn't the usual fire signal.

Q. Now after you left Mr. Williams' office, where did you go?

A. I went over to the paper office on the north side.

Q. Did you see any fire arms or guns or ammunition in Mr. Williams' office while you were there?

A. No, sir; the office was bare of that sort of thing, there was nothing in there, no guns I mean, no ammunition, of any kind.

Q. Now where did you go after you left the office?

A. I left for the Free Press office, the office of the paper, over on the north side.

Q. Did you see Major Guerre that day?

A. I saw Major Guerre after the shooting took place.

499

Q. Where?

A. On Fourth Street and Avenue B, standing next the Great Southern office, close to the office, round by the corner there.

Q. What other building is in close proximity to the office building of the Great Southern Lumber Company?

A. The commissary is right close to it.

Q. Who ran that commissary?

A. That was run by the Great Southern Lumber Company.

Q. Did Major Guerre have anything in his hands?

A. He had a pump gun.

Q. Did you go to the scene of the killing?

A. No, sir; I left as the men walked in the yard.

Q. Did you recognize any of the men that came in the yard?

A. The only one I can really say I recognized was Mr. Magee, Mr. Wiley Magee.

Q. What time was it that you were at Williams' office?

A. It was right around 1.00 o'clock; I can't say exactly what time.

Q. Did any shooting take place while you were around there?

A. Yes; as I left some shooting took place.

Q. Did you remain there, or did you run away or what did you do?

A. I left and went to the north side.

Q. Went to the north side?

A. Yes.

500 Cross Examination.

By Mr. Dufour:

Q. When you heard the whistle, where were you?

A. I was on Fourth Street and Columbia Road.

Q. You then went to the engine house and then came back to Lem Williams' place?

A. Yes, sir.

Q. And what did you do then?

A. I went there to find out from Mr. Williams where my father was.

Q. Did he tell you where your father was—I mean, did he answer you?

A. Yes, sir, he answered me.

Q. And then what happened?

A. I left right away and as I was passing through the gate, these men came out—came into the yard at least.

Q. Now how long did it take you, or how long was it, from the time that whistle blew until you left that yard?

A. I couldn't really say the exact time; I should say about twenty minutes, fifteen or twenty minutes.

Q. Took you fifteen minutes to go to the engine house and then come back.

A. I never went straight from the engine house to Mr. Williams' house, because I wasn't by myself, I was with a friend of mine and I stopped to talk with him at Fourth Street and Columbia Road, telling him where I was going.

500½ Q. Who was your friend?

A. Gilbert Ross.

Q. And as you left Williams' house, you saw these men getting out of the cars?

A. Yes, sir.

Q. And then what did you do?

A. I never paid any attention to them, seeing the guns I got frightened and I thought I would go home and find my father as soon as possible, so I went fast until I got close to the bridge across Bogalusa Creek, and then I heard shots right close to there.

Q. So from the time you got out of the yard, you had time to walk to the bridge before you heard the shots?

A. I wasn't walking, sir.

Q. You were running?

A. Yes.

Q. How far away is the bridge?

A. I can't say; it is just a little ways beyond the laundry. I wasn't right to the bridge; I was several yards from the bridge.

Q. Where was Mr. Magee when you saw him?

A. Mr. Magee was right at the head of the men, with the first few that came in, right at the head.

Q. So he was walking in with them?

A. He was kind of right ahead of them like, just a few feet or inches ahead of the other men.

Q. Then how far had he to walk into the
501 house?

A. When I left, he was just at the beginning of the house, where the house started you know, there is a little space between the street and the house, and he was just about to the house.

Q. And these men were all coming in the gate?

A. Yes, sir.

Q. And then you passed them?

A. Yes, sir.

Q. And started down towards the bridge?

A. Yes, sir, running.

Q. How far away was that bridge?

A. It was a little ways beyond the laundry; I can't say just exactly how far it was.

Q. Was it a block away?

A. Well, yes, I suppose it is.

Q. Is it two blocks?

A. I can't say to the exact distance, because there is no measurements there at all.

Q. No, but just tell us about how far it is.

A. Well, it is around a block; I can't say whether it is a block and a half or what—not so very far from the laundry.

Q. So from the time you saw these men come inside the yard, come near the house, walking up, until the time you heard the shooting, you had a chance to get by that crowd, go down the sidewalk and run a block and a half or two blocks; is that the idea?

502 A. I hardly think it was two blocks.

Q. Well, a block and a half.

A. Well, that would be more like it.

Q. And where did you go after that?

A. I went over to the north side to the paper office.

Q. How far is that?

A. Well, it is—I don't know exactly how far it is; not so very far from the Pine Tree Inn though.

Q. Well, is it a mile, would you say?

A. No, sir.

Q. Is it three-quarters of a mile?

A. No, sir, not that distance it isn't; I doubt if it is quite half a mile.

Q. Half a mile. Did you walk?

A. No, sir; I was running the whole time.

Q. And you ran half a mile?

A. No; I don't say it is quite half a mile; it is not quite that far.

Q. And you don't know it is a full mile from the bridge to where you spoke, from Lem Williams' office to where you speak of, is a full mile?

A. No, sir; I don't know that it is.

Q. And you don't know that it is not?

A. I don't know, sir—it is not a full mile, I know it is not.

Q. Now when you got over there, what did you do?

A. I went in and asked for my father.

Q. Was he there?

503 A. Yes.

Q. Then what did you do?

A. Started for home at that time.

Q. Who started for home?

A. My father.

Q. You were with your father?

A. Yes.

Q. Where was your mother?

A. My mother was home.

Q. Did she stay home all the time?

Objection: Mr. Higgins:

I object to anything about the mother as not brought out on direct examination.

Q. So your mother, you and your mother, didn't meet your father within a few minutes of that shooting?

A. The news was brought to my mother that my father was shot and of course she went to look for my father.

Q. You don't know that.

A. That is what she said.

Q. But you and your mother didn't come up to meet your father?

A. No, sir; I was with my father.

Q. Where did you find your father?

A. I found my father on the north side, at the paper office.

Q. He was at the paper office?

A. Yes, sir.

Q. Then what happened, when you met your father over at the office?

A. My father and I got in the buggy and started for home.

Q. Did you go straight home?

504 A. My father stopped at the post office to see if there was any mail, and stopped and talked with a friend there at that time.

Q. How long did that take?

A. I don't know; it wasn't so very long; just a few minutes, I couldn't say; it was just ten minutes he was there.

Q. Ten minutes in the post office?

A. I say it wasn't ten minutes.

Q. Then after he came out of the post office, where did he go?

A. We went to the Bogalusa Hotel.

Q. And then you went where?

A. We went home.

Q. And you found your mother there?

A. No, sir; my mother—we met her on the road; she was coming to look for us.

Q. Now where did you meet her?

A. We met her at the park.

Q. At the what?

A. At the park in front of the commissary.

Q. And how long after the shooting was that?

A. I guess about forty-five minutes.

Q. When you went back to Lem Williams' office, you didn't see any men in there?

A. There was probably three or four men in there, but who they were I don't know, because I
505 was not talking to them; I was talking to Mr. Williams personally.

Q. Were you in the office?

A. No, sir; I was standing at the door step of the office.

Q. You didn't observe who the men were inside?

A. No, sir.

Q. How did you happen to observe that there were no guns in any part of that office, if you didn't see these men in there?

A. I seen the men, but I didn't notice who they were, I wasn't paying attention.

Q. So you were paying so little attention to what was happening in that office, you didn't recognize the men, but you did observe that there were no guns or weapons in the office?

A. Well, if there had been any weapons, I would have seen them.

Q. When you were standing on the top step, you couldn't see all over the office, could you?

A. The top step is even with the floor, it is just like that (witness indicating).

Q. And you didn't see any guns in there?

A. I looked around to see if my father was in there.

Q. You were not paying any attention to men or anything else except him, just to see if your father was there?

A. That is right.

Q. How old are you?

506 A. Fifteen.

Q. You were young then?

A. Between nine and ten.

Q. Very big boy, were you?

A. Well, I was; I was bigger than boys usually are at that age, a little larger, I suppose.

Q. And you ran around cars and car tracks by yourself?

A. Yes; I was by myself.

Q. Now you stayed at the office of Lem Williams, I believe you said, about twenty minutes?

A. About that some time; it was a very short period.

Q. You ran there?

A. Yes, sir.

Q. You were excited, were you not?

A. Yes, sir, I was excited.

Q. What were you looking for?

A. I was looking for my father.

Q. That was uppermost in your mind?

A. Yes, sir.

Q. And why is it that you swear there were no guns in the office?

A. Well, I never seen any guns.

Q. You never saw any guns; can you swear they were not there?

A. I looked around the room—I wouldn't be certain.

Q. Were you looking for guns or were you looking for your father?

A. No, sir; I wasn't looking for guns; I was looking for my father.

Q. How can you swear that there were not any guns in there?

507 Mr. Higgins:

As I recall, the question I asked him is if he saw any guns and he said no. He didn't say anything about examining the floors or anything like that.

Re-Direct Examination.

By Mr. Higgins:

Q. You are not an expert on distances and time are you?

A. No, sir.

Q. The statements you have made with reference to times and distances are mere approximations?

A. Yes, sir.

Q. Are you related to Lem Williams?

A. No, sir.

Q. Is your father related to him?

A. No, sir.

MRS. L. E. WILLIAMS, the Plaintiff, sworn and examined as a witness in her own behalf, testified as follows:

Direct Examination.

By Mr. Higgins:

Offer: Mr. Higgins:

At this time, I want to offer the letters of tutorship, marriage certificate, birth certificate.

Counsel for plaintiff offers, produces and files in evidence certified copy of letters of letters of tutorship, showing the appointment of Mrs. Lem E. Wil-
508 liams as natural tutrix of her minor child John Earl Williams in proceedings No. 371 of the Docket of the Twenty-sixth Judicial District Court for the Parish of Washington, and marks same for identification "P-2."

Objection: Mr. Dufour:

We object to the introduction of any proof in support of the allegation of confirmation as natural tutrix, on the ground that the petition filed in this case on behalf of the natural tutrix was at a date subsequent to the time of the statute of limitations or statute of prescription.

The Court:

I overrule the objection.

Mr. Dufour:

I reserve a bill.

Offer: Mr. Higgins:

Counsel for plaintiff offers, produces and files in evidence marriage certificate showing the marriage of Mr. L. E. Williams and Miss Helen Richau on June 22nd, 1911, and marks same for identification "P-3".

Counsel for plaintiff offers, produces and files in evidence birth certificate of John Earl Williams, born June 10, 1912, and marks same for identification "P-4".

Q. Mrs. Williams, where were you living on November 22nd, 1919?

A. Bogalusa.

Q. With whom were you living?

509 A. Mr. Lem Williams.

Q. Is that your husband?

A. Yes, sir.

Q. Who else lived in the house with you?

A. My son.

Q. What was your son's name?

A. Earl Williams.

Q. How much was your husband earning at the time he was killed, a month?

A. He was getting $300.00 for his position, besides what he was earning in his garage.

Q. Do you know how much he was earning in his garage?

A. Well, he was making from two hundred and fifty to three and four hundred dollars a month.

Q. What was the condition of your husband's health?

A. Very good.

Q. How old a man was he?

A. He would have been thirty one his next birthday, 25th of June.

Q. Where were you on November 22nd, 1919?

A. At my residence.

Q. Where were you at the time of the alleged shooting?

A. Well, when the shooting took place, I was in his office just a few minutes; I went to ask him if he was coming to the city that afternoon, and he said— .

Q. Don't say anything he said.

A. And I stayed there and talked with him a few minutes, and as the siren whistle blew, I saw these gunmen passing—they passed once before and returned back a second time, and the second time they
510 started all getting out, and they came in as I was half way down the yard. I stepped to my husband's house, and as I got to my little house, to the house door, I saw Wiley Magee—he was ahead—and the LeBlanc boys, Sibley, Major Guerre and Mr. Louis Levert, Beinn, Mr. Wilsox, Bob Carson, Matt Riley, Ed. Stewart, Dr. Brumfield, Frank De Courcy——those were all a little back of Mr. Wiley Magee, but they was within a few feet of him, they was just a few steps back. Mr. Wiley Magee had his shot gun pointed direct-

ly into the garage. Mr. Williams got up from his desk where he was writing on the typewriter, and he says, "What do you fellows all want," and Mr. Wiley Magee throwed his gun round like that (witness illustrating), and he says, "We want you, Lem," and he shot my husband. After he shot my husband, then I seen him fall, and I ran into the street, hollering for mercy, for protection. They were all shooting, and I didn't know how many of these men in there was alive, when I seen my brother Jim Williams at the window—I was at the front—and Johnny Whittington started to fire at him through the small gate, the gate into Mr. Williams' property, and he started to shoot, and Jim had his hands up and I knocked the gun away—if he had shot
511 then he would have killed him, if I hadn't knocked it away—and he says,—his wife begged and prayed for her husband's life, and he throwed her against the china tree and he says, "If all you damned women don't get inside, we will do the very same thing to you all as these men has got." I left him and came from there to my poor husband's body—I knew they had murdered him in his office—and I found those gun men turning all his property over—on my way into the office I saw Bob Carson standing on guard, and when I spoke to him, his answer was "Get out—"

Objection: Mr. Dufour:

If your Honor please, we have had that same thing before. We object.

Mr. Higgins:

We want to find out if Bob Carson made a statement which she heard.

Q. Mrs. Williams, don't say anything that anybody told you at that time, we will come to that later. What did you do next?

A. I came to go to my husband's body, which was lying there. Bob Carson was sitting in the door with a shot gun, and I demanded for him to be removed from my property and he said he wouldn't do it, he would stay there, and Charley Flournoy—he was the only policeman of the city that I saw—he stepped in the yard after all the killing was over, and I ran to him and I said "please make those men leave my
512 property, they have murdered my husband, him and the other men," and he said he was not going to do it, they had to stay. Some time after, the chief of police went in with a few other men—I just don't know who they were—he comes in and he steps over my husband's body, and snatched the letter in the typewriter—I saw Mr. Magee pull this letter out. I went over to where my husband's body was, and he says, "You get out of that door," and he ordered his gun men to fill the side of the door so I wouldn't see what was going on in the office, I suppose, from the point where I was stationed, but I saw what was going on, and I saw him rubbing the drawer of my husband's desk with a file and break it open and take a gun out of it, which he handed to the other fellow—he ordered his gunmen to block my view of the office, so I wouldn't see what he was doing. He ordered me to open Mr. Williams' chest in the garage. I said there was nothing but his tools there, but he said it got to be opened or the lock would be broke, and to satisfy him, to show him there was only my husband's tools in there, I opened it. So when he left, I seen that my husband was dead,

Mr. Bouchillon was dead, and Mr. Tom Gaines was shot and killed in the garage. So after they were standing there, I asked again for Mr. Flournoy to
513 remove these men, and he said they was not going to move from there until he returned about four or five in the evening.

Q. Did you see your husband when he came to the office door?

A. Yes, sir, I did.

Q. What did he have in his hands?

A. Absolutely nothing. He was in his shirt sleeves.

Q. Did you see Wiley Magee at the time he fired?

A. Yes, sir; I did.

Q. Who fired the first shot?

A. Wiley Magee.

Q. Do you know by whom Wiley Magee was employed?

A. Great Southern Lumber Company, Magee and the others, they all was. One of them was the watchman at the Great Southern Lumber Company.

Q. What was his name?

A. Maroy, Dr. Brumfield, Dr. Brister, also, the doctor of the company; he was with them with a gun.

Q. Dr. Brister?

A. Brister.

Q. Employed by the Great Southern Lumber Company; he was there?

A. Yes, sir, and Dr. Brumfield, and Dr. Brock, from the Great Southern Lumber Company also. He was the man that offered my husband $2500.00 to refuse—

Objection: Mr. Miller:

We object as hearsay and gossip.

514 Q. Don't answer anything that Carson said. Where was Carson at the time you spoke to him or where he made the statement to you?

A. He was inside, right at the big gate of my property.

Q. Was that during the time of the shooting?

A. Absolutely, just at the same time that they were all coming in, and just as the shooting stopped, John Whittington tried to kill my brother in law Jim Williams.

Q. Was that at the time there was general excitement due to the shooting?

A. Yes, just—well, it was all at the same time.

Mr. Higgins:

If your Honor please, I believe I have laid the foundation for that statement.

Mr. Dufour:

If your Honor please, this witness was necessarily here during this trial and heard what the other witnesses said, which fixes this testimony at five minutes after. They were evidently together, because they came from the same scene and went in the adjoining house. I submit it is not part of the res gestae.

The Court:

I had better let the evidence in. This is all so closely connected. I can't determine the credibility of the witnesses. It is exclusively for the jury, if there be any contradiction between them.

Mr. Dufour:

We reserve a bill.

515 Q. What statement did he make at that time, Mrs. Williams?

A. He said that they—

Objection: Mr. Miller:

The same objection is made as to Mrs. Melancon. At all events we have a right to more definitely fix the time.

The Court:

You mean, you want to examine her on the time?

By Mr. Miller:

Q. Mrs. Williams, you had been down to your father's house, and saw this trouble between John Whittington and Jim Williams which you testified to happened?

A. It was at the property of Mr. Williams, my father in law.

The Court:

Louder, please.

Q. I am just asking you if you had not been to your father's house at the time it happened?

A. Wasn't really at my father's house; it was just across, back of the building which adjoins.

Q. You were with Mrs. Melanson and your sister in law?

A. No; they came to me when I was hollering for mercy, when I saw these gunmen murdering those men.

Q. I am not asking you about that; I am just trying to fix the time. You don't have to tell it all over again. Now, did you leave there with Mr. Melancon?

A. Sir?

Q. Did you and Mrs. Melancon come from there to your place together?

516 A. We was coming up to see what they was going to with Mr. Jim Williams.

Q. Were you together when you came away and heard Mr. Carson make this statement?

A. We was at the gate.

Mr. Miller:

Well, I submit to the Court—

The Court:

Just go ahead and find out. She has said it was just at the time of the shooting.

By Mr. Dufour:

Q. You heard Mrs. Melancon say that most of the crowd had left when this statement was made?

A. What Mrs. Melancon said has absolutely nothing to do with what I heard.

Q. Did you see Mr. O'Rourke at that time being taken away?

A. I seen the people coming with Mr. O'Rourke, and he was bleeding and shot in the chest.

Q. Where did you see him?

A. He was coming out of the gate with that other man.

Q. So, when you spoke to Carson, they were bringing O'Rourke out?

A. I didn't speak exactly to Mr. Carson myself, but they was bringing O'Rourke out.

Q. When that happened, they were already bringing O'Rourke out?

A. Sir?

517 Q. When this conversation with Carson took place, they were already bringing O'Rourke out?

A. Well, he didn't stay there so very long after.

Q. But he got out of the window, he was killed just about this time?

A. He wasn't killed.

Q. And some of the officers had gone to get him, and they were taking him out to the front gate to the automobile?

A. I didn't see any officers there at all.

Q. Well, some men were?

A. Some of the gun men were.

Q. How many of those gun men as you call them—

A. Gunmen, they sure was.

Q. So when this conversation with Carson took place, O'Rourke was being taken to the hospital?

A. As I was coming in, they was with him.

Q. And that that was after you had left the house and gone as far as they said, you don't believe?

A. I don't want any "You don't believe." I beg your pardon.

Q. By your statement, you don't believe.

A. No, sir; I told you it wasn't as much as they said.

Q. It was as much?

A. I said it was not as much.

Q. I thought you said it was as much. It wasn't as much, you don't believe?

518 A. No, sir.

Q. Then this conversation took place after you were in your father's house, and you came back and you saw them bringing out O'Rourke, and that is the time Carson is supposed to have said this?

A. Yes, sir.

Mr. Dufour:

I submit, if your Honor please, that is not part of the res gestae.

By Mr. Higgins:

Q. Where was Carson at the time you heard him make this statement?

A. Inside of this gate there, at my big gate that leads into my property.

Q. He was standing on your property?

A. Yes, sir.

Q. And had all of this shooting stopped at that time?

A. Just about, yes, sir, because they had killed Mr. Williams, one of the men had killed Mr. Williams, and after they killed Mr. Williams, they were all shooting, and there was great excitement, and I ran to the front, hollering for mercy, and while I was there, I looked at the window and I saw my brother in law, he was standing at the window, and I saw Johnny Whittington was going to shoot him through the gate, through the small gate, and I just ran out of this big gate to get to that gate, and when he aimed to shoot Mr.
519 Jim Williams, I threw the gun off and saved him and when he tried it again, my sister in law begged and prayed for his life, and he shoved her against the tree and he says, "Damn you, old woman, if you don't get inside, we will do you all the same as we done these men." Then we came back to Mr. Williams place, and when we came back to Mr. Williams' place, Bob Carson was there with his gun, and that is the statement he made.

By the Court:

Q. How long was that after the last shot was fired?

A. Well, Judge, it wasn't so very long, because Johnny Whittington had just shot at Mr. Jim Williams, when Mr. Jim Williams had his hands up, like that (witness illustrating).

Q. How long would you say it was?

A. Well, I would say may be ten minutes, because it was done quick, it wasn't over ten or fifteen minutes, I don't suppose.

Q. Was it in the yard of your husband's property, or outside of the yard?

A. Right at the gate inside, at the gate of my husband's property.

Q. How far from the office where your husband was shot?

A. You mean from the gate?

Q. No; where you met Bob Carson, where you and Bob Carson were standing, to the office where
520 your husband was shot?

A. Well, it wouldn't be further than this Court room (witness indicating).

Q. Where were the balance of the crowd that had entered that yard?

A. There were some in the yard, some in the street—they was just all around at the time.

The Court:

I am going to let the witness state what he said.

Mr. Dufour:

We reserve a bill.

By Mr. Higgins:

Q. What did he say, Mrs. Williams?

A. He said they had come to kill Lem Williams, and they had killed him.

Q. By whom was Carson employed, do you know?

A. The Great Southern Lumber Company.

Q. Now, don't answer this question till these gentlemen have a chance to object. What was Bob Carson's reputation for peace and quiet?

Objection: Mr. Dufour:
We objcet.

The Court:
I overrule the objection.

Mr. Dufour:
We reserve a bill.

Q. What was Wiley Magee's general reputation in Bogalusa?

521 Q. What was Wiley Magee's general reputation in Bogalusa for peace and quietness?

(Same objection, same ruling and same bill.)

Q. Did you know a man by the name of O'Rourke?
A. Yes, sir.
Q. What was his reputation for peace and quiet?
A. Very good.
Q. Did you know a man by the name of Bouchillon?
A. Yes, sir.
Q. What was his reputation in Bogalusa for peace and quiet?
A. Very good.
Q. Did you know a man by the name of Clay Richau?
A. Yes, sir.
Q. What was his reputation in Bogalusa for peace and quiet?
A. Good.
Q. Did you know a man by the name of Armand Bourgeois?
A. Yes, sir.
Q. What was his reputation in Bogalusa for peace and quiet?
A. Good.

Q. Did you know a man named Arthur McAlister?

A. Yes, sir.

Q. What was his reputation in Bogalusa for peace and quiet?

A. Good.

Q. Did you examine your husband's body after you went back in the office?

A. Yes, sir.

Q. Where was he shot?

A. He was shot through his heart (witness illustrating).

Q. Did he have any other wounds besides
522 that?

A. In his head.

Q. Which portion of his head?

A. (Witness indicates) On the side, glanced off the front.

Q. Did you go into the office after the killing?

A. Yes, sir.

Q. Did you see any guns in there, except the one you testified was taken out of the drawer?

A. Absolutely no.

Q. Was your son home that day?

A. Yes, sir.

Q. How old was your child at that time?

A. Six going on seven.

Q. Where was he at the time the men came in the yard?

A. He was sitting in front of the garage, playing, and as I passed by, I took him by the hand and carried him with me.

Q. Mrs. Williams, will you look around the court room and see if you can identify any parties that were present at the time of the shooting?

A. Yes, sir.

Q. Will you point them out?

A. That is Major Guerre, that is Mr. Wilcox, that is Mr. J. B. Lindsley, and that is Mr. Louis Levert.

Q. Did you notice whether they had anything in their hands at the time?

A Every one of them had a gun.

Q. Now, Mrs. Williams, did I understand
523 you to say a man named McElroyd was there?

A. Yes, sir.

Q. What was his occupation?

A. Watchman at the Great Southern Lumber Company saw mill, at the gate.

Q. Did he have a gun in his hand?

A. Yes, sir.

Cross Examination:

By Mr. Miller:

Q. You say Bob Carson was working for the Great Southern Lumber Company?

A. Yes, sir.

Q. How do you know?

A. Because he was connected with it, and he certainly would not be sacrificing his time working for the Great Southern Lumber Company if he weren't being paid for being connected with it.

Q. That is all you know as to his being an employee?

A. I saw him at the company's property and at the time the man was on duty at the saw mill.

Q. Didn't Carson have a shop and market of his own down on Columbia Road?

A. I couldn't tell you if he has or not.

Q. You don't know anything about it?

A. I heard but I am not sure.

Q. And you don't know that he was employed
524 by the Great Southern Lumber Company, except that you think he was?

A. I am positive he was.

Q. But let us have your reasons for it?

A. I just told you I seen him there, in company with Mayor Guerre and all of them aat that time, the day they killed him with their shot guns.

Q. How do you know Bob Caarson was working for the Great Southern Lumber Company?

A. How are you going to sacrifice your time for days and hours if you wouldn't be employed by the Great Southern Lumber Company— just for pleasure?

Q. That is the reason you say he was employed by them?

A. (No answer).

Q. Where were you standing at the time these men shot your husband?

A. Just across between the office and the house, at my door, when Mr. Wiley Macggee shot my husband.

Q. Between the office—

A. And the house, yes.

Q. On the ground or on a ggallery?

A. On the ground.

Q. In front of your door?

A. Not the front door, no, siir.

Q. Show me just where you were standing (exhibiting map to witness). Have you seen this plat, do you know it?

525 A. Yes, sir.

Q. This is the office, that is the garage, and that is the yard. Where were you standing? Take a pencil and mark the place?

A. I left from this door, and I was standing where he had— here— and Mr. Wiley Magee was standing there when he shot my husband (witness indicating).

Q. Will you make a little mark to indicate where you were standing?

A. Here; I stopped as far as this, aside from the office.

Q. The little cross mark shows where you were standing?

A. Yes, sir.

Q. Do you know where Mrs. Melancon was?

A. Mrs. Melancon just had stepped into the yard; she was standing by the boat.

Q. Did you see her?

A. Yes.

Q. Standing by the boat?

A. Yes.

Q. Was anybody else by the boat?

A. What do you mean by "anybody else"?

Q. Was anybody else standing by the boat where Mrs. Melancon was?

A. Some one else? When we went in there all those other gun men were in the yard.

Q. Did you see Mr. Levert?

A. Absolutely I did.

Q. Where was he standing?

A. He was standing close by the office, with
526 his gun in proper position.

Q. Close to the office, you say?

A. Yes, sir; right in here (witness indicating), in this vacant place. He was there. This is my husband's office, and this is the door. Wiley Magee was standing right there, ready to shoot him. This is where I was standing at, and this is the vacant place where he was, and these other gun men was standing around, and there was people in that office. They almost chopped the wall of the building to pieces with their bullets that went through.

Q. Anybody else there with you, or were you alone?

A. My son was there with me, and the poor little thing got so scared he even ran and hid himself in this big building on the third floor, when he recognized his papa was killed and these gun men were drilling the wall through with bullets.

Q. Did he go back into the office?

A. Who; me?

Q. No; the little boy?

A. No, sir; he ran over to his grandpa's place.

Q. No one there then but you and the little boy?

A. No; they were all standing around there.

Q. Right where you were standing?

A. Yes, sir; except the other gun men that had gone on.

Q. Any other ladies, any other people?

527 A. No, sir, not present at the time my husband was killed, but my sister-in-law was just opposite this boat.

Q. How long had your husband been getting this $300.00 a month from the Union?

A. Just as soon as the Union was operating and starting to organize.

Q. Well, when was that?

A. They began in 1918 and he was murdered in 1919—just about a year.

Q. And the Union had been going on for about a year in Bogalusa?

A. Yes, sir; at the beginning before they discovered that they had a lodge there.

Q. And he was getting this pay all that time?

A. He didn't get it the full year, no, sir.

Q. When did he begin to get it?

A. About six or seven months before they killed him.

Q. Then there was a union organized in Bogalusa in July?

A. How is that.

Q. The Union was going on—

A. I can't tell you exactly the month it started.

Q. I don't know, but in July the Union was in operation?

A. I suppose they were.

Q. Now this garage—you say he was making three to four hundred dollars out of that?

A. Why certainly.

528 Q. How many men did he have working for him?

A. He and two men working for him. Besides he devoted his own time himself to it.

Q. His time was mostly taken up with the affairs of the Union, wasn't it?

A. Well, part of it.

Q. Wasn't most of it occupied with the affairs of the Union?

A. Certainly.

Q. And he had two men working for him?

A. Yes.

Q. Who were they?

A. Tom Gaines was one, and a man by the name of Eastman.

Q. Were they working for him at the time of this shooting?

A. Yes, sir.

Q. Both of them?

A. Yes, sir.

Q. And he made besides what he paid them, three or four hundred dollars?

A. I don't know exactly if that was clear money or with expenses.

Q. You don't know how much a month he made clear?

A. He cleared from $150.00 to $160.00 a month.

Q. And Major Guerre—where was he when you first saw him?

A. He was in the yard with a gun, when I saw him.

Q. I know that from what you say, but I ask where he was when you first saw him?

A. In the yard, coming in.

Q. Was he up in front with Wiley Magee
529 and LeBlanc?

A. Not in the front; he was a little back, coming slow, behind Wiley Magee and the others who were ahead.

Q. Was he up past where your sister was standing by the boat?

A. Well, I couldn't tell you that.

Q. He was pretty well up in the yard though?

A. Yes, sir.

Q. And Dr. Brister?

A. Dr. Brister was in the car too.

Q. Was he with Mr. Guerre when he walked in?

A. I never absolutely said they walked in, but they came in as we walked back.

Q. That is what I mean; they were among the first that came in; is that right?

A. Yes, sir.

Q. Both Major Guerre and Dr. Brister?

A. They was in the first crowd that walked in, beside with Wiley Magee, he was just a few steps ahead.

Q. And Bob Carson, where was he?

A. He was in the yard with his gun.

Q. Was he up with Wiley Magee?

A. No, sir, not exactly with Wiley Magee, they absolutely could not be with Wiley Magee, because there was so many.

Q. Was Bob Carson there right where Major Guerre and Dr. Brister were?

A. I couldn't exactly say where he was; there was all this crowd of men walking into the yard.

Q. They were not away back by the gate?

530 A. Absolutely no.

Q. They came up in the yard?

A. Yes, Mr. Laftman also was there.

Q. Well now, did you say Wiley Magee was employed by the Great Southern Lumber Company at the time of the shooting?

A. Yes, sir.

Q. How do you know that?

A. At the time of the shooting—he was connected with the Great Southern Lumber Company all the time. As I said, if any man would go and sacrifice his time, not one day but years and that man goes to work—to be candid with you, I saw him with his gun at the company's yard, the saw mill yard, and I saw him sitting in the little office, at the door of that office, up on Fourth Street, and he wouldn't sacrifice himself for pleasure for the Great Southern Lumber Company, and walk the streets with arms the way he did, with this armed mob.

Q. That is the reason you say he was employed by that company?

A. That is the reason.

Q. Don't you know he was a regular police office of the City of Bogalusa at that time and had been for some time; you don't know that?

A. He was connected with the Great South-

531 ern Lumber Company.

Q. You decline to answer that question, do you?

A. Sir?

Q. You decline to answer my question and tell me whether you know he was a police officer—

A. I know he was working for the Great Southern Lumber Co.

By the Court:

Q. That is not the question, Mrs. Williams. You were asked the question as to whether you know he was on the police force of the city of Bogalusa?

A. I do know he is a hired gunman for the Great Southern Lumber Company since I have been in Bogalusa.

By Mr. Dufour:

Q. You have not answered the question. Was he or was he not employed as a police officer by the city of Bogalusa?

A. He was not employed as a uniformed policeman; he was employed by the Great Southern Lumber Company.

Q. What was the last man's name you mentioned?

A. Mr. Laftman.

Q. Was he connected with the Great Southern Lumber Company?

A. He was foreman of the paper mill.

Offer: Mr. Higgins:

If your Honor please, I want at this time to offer the American Mortality Tables, showing the length of time Mr. Williams would have to live.

532 After recess.

JIM WILLIAMS, recalled:

By Mr. Higgins:

Q. Mr. Williams, will you kindly tell us what this office of your brother's was constructed of?

A. Do you mean the material?
Q. Yes.
A. Pine lumber.
Q. Was it ceiled, weather boarded or what?
A. Why, as well as I remember, 1x12 boards.
Q. Well, did it have ceiling or weather boarding?
A. No; just one partition, 1x12.
Q. Just a plain board wall?
A. Yes; as well as I remember.
Q. Kindly state whether or not there was any personal feeling between your brother Lem Williams and Wiley Magee?
A. Why, no, sir, not that I know of.

Mr. Higgins:

If your Honor please, we rest at this time, reserving the right to introduce the return to the subpoena duces tecum that has been taken out, and, of course, our right of rebuttal.

533 CHARLES FLOURNOY, being first duly sworn as a witness on behalf of defendants, testified as follows:

Direct Examination.

By Mr. Dufour:
Q. What is your name?
A. Charles Flournoy.
Q. How old are you?
A. 47.
Q. Where do you reside?
A. Bogalusa.

Q. How long have you resided there?
A. Since 1907.
Q. What is your present occupation?
A. Patrolman; Police Officer.
Q. Of the City of Bogalusa?
A. Of the City of Bogalusa.
Q. How long have you occupied that position?
A. Since the 18th of March, 1915.
Q. Have you held that position since that date?
A. Ever since that date.
Q. Were you a petrolman of the City of Bogalusa on the morning of the day of November 22nd, 1919?
A. Yes, sir.
Q. Where was your beat at that time?
A. On what they call Columbia Road part of the town.
Q. What time did you go on duty in the morning?
A. 6:00 o'clock.
Q. How long did you stay on duty?

A. Till 12:00; then off until 1:00; back
534 again at 1:00; off again at 6:00.

Q. 6:00 to 6:00. Do you know, or did you know, Sol Dacus?
A. Yes, sir.
Q. Did you see him on that day when you were patrolling your beat?
A. Yes, sir.
Q. Where was he?
A. He was in Fourth Street, in Jew Town, and on Columbia Street.
Q. Is Lem Williams' office and residence on Columbia Road?
A. It is.

Objection: Mr. Higgins:
I object to your leading the witness.

Q. Where did you see Sol Dacus?
A. I saw him on Fourth Street, in Jew Town.
Q. Was anybody else with him?
A. There was.
Q. Who was?
A. Two men.
Q. Do you know who they were?
A. Mr. O'Rourke and Mr. Bouchillon.
Q. What were they doing?
A. They were walking along the side of Sol Dacus—

Objection: Mr. Higgins:

I want to object to that evidence as being immaterial. What have O'Rourke and Bouchillon got to do—walking along the side of the road with Sol Dacus—
535 with the case of Lem Williams?

Mr. Dufour:

The purpose of the evidence is—The answer sets up that Sol Dacus was walking along the street with Bouchillon and O'Rourke, both of whom were armed with shot guns, and they were making certain defiant remarks, and from there they went to the place of Lem Williams. The answer also sets up that the purpose of these men in going to Lem Williams' place of business was to arrest Sol Dacus, Bouchillon and O'Rourke for a violation of the public peace, that warrants had been issued for them; and now we are proving the circumstances under which that happened.

The Court:

I don't think you would have to show the offense if you show the warrants.

(Here follows argument.)

The Court:

You will have to show the affidavits and the issuing of the warrants, and that they were there in the execution of that warrant. I don't think the circumstances that led up to it, not connected with Williams, is evidence.

Mr. Dufour:

This was about an hour before the occurrence. It certainly would be competent to show existing
536 conditions in Bogalusa for months previous to that, to meet the testimony of Mr. Rowan.

The Court:

I don't see the relevancy.

Mr. Dufour:

We except to your Honor's ruling and reserve a bill.

Q. Where was Dacus going at the time you saw him?

A. In which way was he traveling?

Q. Yes.

A. He was traveling first—he was traveling west—then he went north—and then he went northeast.

Q. Where did you lose sight of him?

A. Just as he turned east; just as he stepped off the sidewalk at Lem Williams' property.

Q. Did you see him go in there?

A. I saw him step off the sidewalk into this property of Lem Williams'.

Q. Who was with him?

A. Those two white men that had those guns in their hands, Mr. O'Rourke and Mr. Bouchillon.

Q. Did you make any report of that occurrence?
A. I did.
Q. To whom?
A. To the Chief of Police.
Q. Who was the Chief of Police?
A. T. A. Magee.
Q. What remarks, if any, were made by any, or all of these men as they went down the street?

537 Objection: Mr. Higgins:

I object on the ground that it is perfectly irrelevant, and cannot, in any way, shape or form, bind Lem Williams; any statements made by Sol Dacus, O'Rourke or Bouchillon.

Mr. Dufour:

If your Honor please, we have got them in Lem Williams' office on the morning of the occurrence. I submit the circumstances under which they went there and the fact that they had guns in their hands in going in there is relevant to the issue of this case.

The Court:

Whatever the remarks are involved in this case I can see no relevancy in. I sustain the objection as to the remarks. I will permit you to show, or rather I will rule on it when the time comes, but my present impression is to permit you to show that Bouchillon and O'Rourke went into this office armed, because during that time—because that is a question that has been brought out in the case.

Mr. Dufour:

I except and reserve a bill.

Q. What time of day was that?

A. Between 11:00 and 12:00, to the best of my recollection.

538 Q. Did O'Rourke and Bouchillon have anything in their hands?

A. They had shot guns. Each one of them had a shot gun in his hand.

Q. I understood you to say that you reported that incident to the Chief of Police?

A. I reported, at once, to the Chief, what I had seen and heard.

Q. Did you know whether or not, at that time, any warrant was out for the arrest of these men?

A. Yes, sir.

Q. For whom?

A. For Sol Dacus.

Q. From whom had you gotten that information?

A. I had gotten it, indirectly, from the office, not directly.

Q. Why didn't you arrest Dacus at that time?

A. Well, I didn't feel disposed to take that chance with my life, considering the way they talked, the language they were using when I met them; they defied anybody to touch Dacus, that is the reason I didn't.

Objection: Mr. Higgins:

I object to that.

Mr. Dufour:

I submit that is the explanation of why this officer didn't arrest those men for whom he knew there was a warrant outstanding.

539 The Court:

It is not shown that this witness had a warrant for Dacus' arrest. Why he didn't arrest Dacus or not is immaterial. I sustain the objection.

Mr. Dufour:

I reserve a bill.

Q. Were you there at, or in the vicinity of Lem Williams' residence when the shooting took place that day?

A. I was in the town but not in that particular part of the town.

Q. Where were you at that particular time?

A. I was at my house, or must have been near the house. If I wasn't at the house I was near there, because it is my noon hour and I was going to lunch.

Q. Where did you go after you returned from your dinner?

A. I came back to the City Hall from my home.

Q. When and where did you learn that there had been any shooting?

A. At the City Hall, as I returned from lunch.

Q. What did you then do?

A. I rushed on down to where the Chief reported that there had been some trouble.

Q. Who was Chief of Police on that date?

A. T. A. Magee.

Q. Where was he, was he at the City Hall when you got there?

A. He was not.

Q. Where was he?

540 A. He wasn't there, that is all I can tell.

Q. Where did you see him then?

A. I saw him at Mr. Williams' place, that is where I first saw him.

Q. What did you do when you got to Lem Williams' place?

A. I stopped there and went right into the office where this occurrence had happened.

Q. Did you have any details from your Chief when you got there?

A. When I got there the Chief was looking around over the situation. Just a few minutes after I got there he ordered me to take charge and remain until the Coroner could get there.

Q. When did you first go into the office where Lem Williams and these other bodies were?

A. I didn't go into the office until after the Coroner came.

Q. Before the Coroner came you were standing around on guard?

A. I went to the door where I could see in the office. I didn't go in the office. I walked to the door and to the body of the other man that was in the shop.

Q. Did you see any fire arms in that office?

A. I did.

Q. What fire arms; how many?

541 A. I couldn't tell you just how many there was. I remember a double barrel shot gun lying over by the man by the window. There was a pistol lying on the floor between—kind of between the two bodies. The two bodies were lying this way. (Witness indicating). There were two revolvers lying on the floor. I don't remember the position, on which side of this body, or whether there was two revolvers or one on this side, but there was two revolvers on the floor, and in the drawer of the desk, which was about that far pulled out (witness illustrating) there was different sized cartridges and gun shells; I could see there from the door where I stood.

Q. From the time you reached there until the time the Coroner came did anybody go in that office?

A. No, sir.

Q. Did you have any instructions with regard to the admission of anybody?

A. I did.

Q. What were your instructions?

A. My instructions were to let nobody touch the bodies or anything lying around until the Coroner got there.

Q. How long after you reached there did the Coroner arrive?

A. I am not able to tell you that. I don't remember just how long it was. There was a lot of confusion around there and I was busy looking over the
542 place, trying to keep everything straightened up. It was an exciting time around there and I don't remember just how long it was.

Q. Well, it was an hour, or two hours?

A. It must have been an hour, or an hour and a half, something like that. I couldn't say positively.

Q. Where did the Coroner live?

A. At Franklinton.

Q. Who was the Coroner?

A. Dr. Brock.

Q. How far is Franklinton from Bogalusa?

A. Twenty miles.

Q. You say nobody was allowed to go in the door to that office?

A. No, sir.

Q. Did anybody come up and look in the door?

A. A few, a few came and looked in the door; a few came up to the door of the shop and looked at the party that was in the shop, but they didn't go up to the bodies.

Q. You didn't let anybody in?

A. No, I instructed them to please don't interfere. They might look in and walk away.

Q. Do you know Tom Gaines, or did you know Tom Gaines?

A. I did know him, yes, sir.

Q. Was he shot that day?

A. Yes.

Q. Where was his body?

543 A. It was in the shop.

Q. In the shop adjoining the office?

A. Yes, sir.

Q. Did you see his body?

A. I did.

Q. Were there any arms in that shop?

A. A single barrel shot gun.

Q. Where was that?

A. I don't remember whether it was lying on the work bench right by the window or whether it was by the body lying on the floor. There was a shot gun there where it showed that the body had been on the work bench, or near there, because there was blood on the work bench.

Q. Did Gaines have anything in his hands?

A. Nothing that I saw.

Q. You saw him?

A. I saw him.

Q. Saw his body?

A. I saw him when the Chief turned him over. The Chief turned him over. He says to me, "I will turn him over and see if he is dead. Chief Magee was there and he turned him over, turned him on his face.

Q. Did he have anything in his pockets?

A. He had some shells in his pockets.

Q. What kind of shells?

A. Gun shells; twelve gauge gun shells.

Q. When did you first see these?

544 A. When the Coroner came there, and in turning him over one or two of the shells, I remember, fell out of his pocket, when the Chief turned him over on his face on the floor.

Q. Did he have any tools in his hand?

A. He had not.

Q. Were there any tools in the immediate vicinity of his body?

A. There were tools around the work bench, the best I remember.

Q. But not in his hands and not near his body?

A. Absolutely not around his body or near the work bench.

Q. Do you recall the arrest of Tom Ezell, some weeks before this occurrence?

Objection: Mr. Higgins:

I object on the ground that it is immaterial.

Mr. Dufour:

We propose to show that this man was arrested and that the deceased Lem Williams challenged the officers who were arresting him—

Mr. Higgins:

If your Honor please, I object to all of these statements made in the presence of the jury.

(Jury withdrawn.)

545 Mr. Dufour:

It is in evidence here that Lem Williams was a peaceful and law abiding citizen, who was shot down in cold blood by these defendants; that testimony has

been introduced. We propose to show by this witness that, on a number of occasions, including the one I am referring to, Lem Williams accosted the officers who made the arrest, abused them, threatened them, threatened to burn down the jail and deliver the prisoner and do bodily injury to the officers. Now that is admissible, first, to meet the suggestion that this was a peaceful man who was shot down in cold blood, without any provacation whatever, and, secondly, to meet the evidence that was introduced that he was a law abiding citizen of good character. The further purpose of this evidence is to show the condition of tyranny that existed in Bogalusa; that the officers of the law were powerless or cowed by the acts of Lem Williams and his associates, and that they carried them so far as to interfere with officers in the discharge of their duty and threatened them, threatened to bomb the jail and make delivery of the prisoners if their will was not recognized as superior to the law itself.

546 (Here follows argument.)

The Court:

I cannot see the relevancy of anything he may have done at any other time. The evidence as to Williams' reputation cannot be rebutted, as I understand, by evidence of specific offenses, so it is not evidence in rebuttal of his general reputation and it is not evidence relevant to the general issue, because, really, it would make no difference what he had done at any other time if they wrongfully killed him at that time.

Mr. Miller:

The charge is made that these people killed him, and it is charged there were a great many of them, more than ordinarily necessary for the making of an arrest of one,

or two, or three men. That is an incident that plaintiff relies on as showing that this was done by a mob or in pursuance of a conspiracy. We wanted to show why it was that this number of men went, and why it was necessary that that number of men should go there for the purpose of executing a warrant which had been placed in the hands of the officers of the law. I presume what they are attempting to reason against is that they went with a mob or crowd, which was unnecessary
547 for the simple purpose of executing a warrant of arrest against somebody. We want to show by this officer why it was necessary to go there the way we did.

The Court:

I will pass on that when I get to that, but this evidence is not admissible. I sustain the objection.

Mr. Dufour:

And I reserve a bill.

Mr. Dufour:

I will ask the stenographer to take this. I want to state that our purpose in offering this testimony is to show conditions existing in Bogalusa at the time of this killing, and several months prior thereto; to show how the deceased, Lem Williams had frequently, during the period referred to, resisted the officers of the law, interfered with them in the discharge of their duties, attempted to make jail deliveries and threatened to storm the jail if the prisoners were not released, and that, therefore, because of these conditions, known to the public authorities, on the day in question, for the purpose, presumably, of enforcing the law, called in a squad of special officers to assist in making this arrest.

548 Mr. Talley:

If the Court please, in addition to that, on behalf of the individual defendants, we propose to show by this certain testimony, in answer to those allegations where they are charged with having murdered Lem Williams in cold blood, and where it says that they were members of a mob that assembled without cause, and where it is said that there was no occasion for blowing the whistle.

(Jury brought back.)

The Court:

I will exclude that evidence. I sustain the objection to the question asked, for reasons stated.

Mr. Dufour:

We reserve a bill.

Q. At, or about, or shortly before the day of this killing, were you interfered with, in the discharge of your duties, by Lem Williams?

Objection: Mr. Higgins:

Your Honor, please, I think this is leading the witness.

The Court:

Well, that question has been ruled out.

549 Mr. Higgins:

Sure it has been ruled out, but I object on the further ground that it be ruled out.

Mr. Dufour:

Will your Honor rule on that objection?

The Court:

I sustain the objection for the reasons given in regard to previous questions.

Mr. Dufour:

I reserve a bill.

Q. Did you hear the siren whistle blown on the day of the killing?

A. I did not.

Q. Did you ever hear that siren whistle blown on any other day when it was not blown for a fire?

A. Yes, sir.

Q. When?

A. Once before that, I don't remember the date.

Q. How long before the killing was that?

A. It must have been at least two weeks.

Q. Do you know what the whistle was blown for on that day?

Objection: Mr. Higgins:

I object on the ground that it is immaterial and irrelevant and has got nothing to do with what happened on November 22nd, 1919.

The Court:

I think that is relevant to show the purpose for which that whistle was used.

550 Mr. Higgins:

Q. If you know of your own knowledge?

Mr. Dufour:

O, yes, he knows.

By Mr. Dufour:

Q. Go ahead, Mr. Flournoy.

A. I don't know anything about the signals of the whistle. I didn't pay any attention to the whistle when it was blown. I didn't hear it the last time it was blown. The first time I heard the whistle blown I didn't know what it was for.

Q. What happened after the whistle was blown?

A. It obtained assistance to us for relief at the jail.

Q. Assistance to us at the jail; who are "us"?

A. Us police officers, Chief Magee—

Mr. Higgins:

I want to know the time.

Mr. Dufour:

He says at least two weeks.

The Witness:

You are talking about the time that Mr. Norman Simmons was put in jail and they threatened to blow us up?

Q. Who else was put in jail?

551 Objection: Mr. Higgins:

I object, if your Honor please. That has already been ruled out.

The Court:

I am letting him state the purpose, if he knows.

Mr. Dufour:

We want to show that, on a previous occasion, the constituted authorities—

Objection: Mr. Higgins:
I object to Counsel making a statement before the jury unless this evidence is going to be admitted.

Mr. Dufour:
Well, the jury can be retired.

The Court:
I think the witness has answered, has he not, the purpose of that whistle, and the response was from men coming to the aid of the officers.

Q. What was the occasion for the officers summoning assistance?

The Court:
He said he didn't know for what purpose the whistle was blown; he only knows the result, what followed after the whistle was blown.

Q. You stated that aid came to the officers after the blowing of the whistle?
A. Yes, sir.
Q. What was the occasion for aid coming
552 to the assistance of the officers?

Objection: Mr. Higgins:
Just a minute now, that is evidence that your Honor has excluded.

(The Jury withdrawn.)

Mr. Dufour:
If your Honor please, it is charged that we blew this whistle on this date for the purpose of summoning a lot of gun-men to go out and kill this man. The defense

has set up an answer that this whistle was blown on the day of the killing at the request of the constituted authorities, for the purpose of summoning to their assistance special police officers. We now want to show that, on a previous occasion, the whistle was blown for the purpose of summoning special police officers to the assistance of constituted authorities, and we want to show that, on the date in question, the first day, Lem Williams and others had been arrested, that a large body of laborers had congregated there and threatened to storm the jail if these men were not delivered; in other words, to show that that whistle was used for a lawful purpose, and not for an unlawful purpose; that these special officers reported at the time of the first
553 whistle, protected the constituted authorities, dispersed the mob, without any blood shed or violence at all and we set up in this case that had it not been for the provocation of the shooting on the other side there would have been no killing on that day, as those same officers responded to the first whistle who responded to the second whistle, to go there and enforce the law and not to kill anybody and that the whistle had been blown on a previous occasion for a lawful purpose.

The Court:

Well, I have ruled that is admissible, but I have ruled that, so far as showing that Lem Williams and others were there to violate the law, as you claim, is not admissible, but the lawful purpose for which the whistle was blown on a previous occasion will be allowed.

Mr. Johnson:

I understand your Honor has ruled out evidence that this man Ezell was arrested.

The Court:

I am ruling out all evidence of particular instances of what these men might have done, and I am permitting you to show that this whistle was used for a lawful

554 purpose.

Mr. Dufour:

We have got to show that there were men in jail and that these men came to deliver them, otherwise, we cannot show that the whistle was lawfully blown.

The Court:

What we have got to do is to separate the two facts. The question has been raised of the irrelevancy of that whistle. I will admit evidence to show that it was used on previous occasions for a lawful purpose. The jury is entitled to decide on the facts in this case. I will limit the evidence to the fact that they came to the aid of the officers in response to that whistle. I will permit that evidence to go in.

Mr. Dufour:

Will you permit evidence to go in that Lem Williams and others were attempting a jail delivery at that time?

The Court:

If the witness knows, I will let him testify, not as to individuals, but that there was an attempted jail delivery, if those are the facts, without mentioning Williams or his confederates, or any of those alleged confederates, or any of them.

555 Mr. Higgins:

Will you instruct the witness not to mention the name of Lem Williams or any other of the laboring men?

Mr. Talley:

He will have to mention Lem Williams' name; he was leading the crowd.

The Court:

Well, I have ruled that out.

(Jury brought back.)

By Mr. Dufour:

Q. Mr. Flournoy, on the occasion that this whistle was first blown, which you say was at least two weeks before the day of the killing, what was the purpose of summoning assistance to the police officers through the blowing of that whistle?

Objection: Mr. Higgins:

We object on the ground that it is immaterial and irrelevant.

The Court:

As to what you know of your own knowledge.

A. I know there was signals to be sounded in case of necessity. The Chief had given these instructions, or had talked this matter over with the special officers that had offered their services. I didn't know what were
556 the signals; I did know there was a whistle to be blown in distress.

Q. Now, what was the occasion of blowing that whistle?

A. The attempt at a jail break.

Q. Where?

A. At the City Hall in Bogalusa.

Q. How many people were out there?

A. Oh, there must have been at least a hundred.

Q. What were they doing?

A. They were talking and threatening to dispose of us officers, among the few that was there, and deliver the prisoners that was in jail.

Q. How many?

Objection: Mr. Higgins:

I object to anything anybody was talking about as hearsay.

Mr. Dufour:

The cries of the mob are certainly admissible. How does he know that they were not there calling for a glass of water.

The Court:

The evidence is admissible only for the purpose of showing that that whistle was used prior to the day of the killing for the purpose of calling, or the alleged purpose of calling, whatever you might say, for assistance to the officers, if that be a fact.

557 Q. Was any response made to the call for assistance?

A. There was.

Q. Any men come there?

A. There came a crowd of men.

Q. Who were those men?

A. Special Officers.

Q. What did they do when they got there?

A. They came there to assist us in taking care of the prison, protecting the prisoners and the jail.

e crowd after the special

Q. What happened to t
officers got there?
A. They disbanded.
Q. Was there any shooti g?
A. Not a shot fired.
Q. The special officers di l no shooting?
A. Nobody did.
Q. Was this mob armed? e crowd.
A. There was guns in tl

Objection: Mr. Higgins:
I object, your Honor pleas , to going into all of that—

Mr. Dufour:
We are showing it was an armed mob.

The Court:
It comes within the purpo e of just what that whistle may have been used for.

Q. Who was in the crowd

Objection: Mr. Higgins:
We object on the ground t at it is irrelevant, besides,
you cannot prove c aracter and reputation by
558 specific acts.

The Court:
I sustain the objection.

Mr. Dufour:
We reserve a bill.

Q. Was Lem Williams in the crowd?

Objection: Mr. Higgins:
The same objection.

The Court:
The same ruling.

Mr. Dufour:
We reserve a bill.

Q. Who appeared to be the leader of the crowd?

Objection: Mr. Higgins:
The same objection, and I object on the further ground that it is merely an opinion of the witness.

The Court:
I sustain the objection.

Mr. Dufour:
We reserve a bill.

Q. Who was the leader of the mob?

Objection: Mr. Higgins:
The same objection.

The Court:
The same ruling.

559 Mr. Dufour:
We reserve a bill.

Q. Did you know Lem Williams?
A. Yes, sir.

Q. How long had you known him?
A. At least twelve years.
Q. What was his general reputation around there?

Objection: Mr. Higgins:
I object on the ground that the question is not properly put.

Q. What was his general reputation for peace and quietness?
A. Not good.
Q. Not good?
A. No, sir.
Q. Was it bad?
A. It was bad.

Cross Examination.

By Mr. Higgins:
Q. Mr. Flournoy, how long were you a police officer in the City of Bogalusa?
A. Since 1915, the 18th day of March.
Q. Who has been the Chief Executive of the city during the time you were on the force?

Objection: Mr. Dufour:
We object. That is not relevant to any issue.

Mr. Talley:
It is not proper cross-examination.

The Court:
I sustain the objection. You are asking about the Chief of Police or the Mayor?

560 Mr. Higgins:

The Chief Executive necessarily, would be the Mayor.

The Court:

Well, I sustain the objectio[n].

Q. How long after the sho[t]ing before you came to the Williams place?

A. I can't say just how lon[g] it was, because I didn't hear the shooting. Only a sho[t] time.

Q. Well, before you got to [t]he place, you don't know who went into the office build[i]ng or who went into the garage?

A. Absolutely not; no, sir, not before I got there.

Q. Were you in the crow[d] that went to Williams' place at the time of the shooti[n]g?

A. No, sir.

Q. Now, after you saw Bou[l]hillon and O'Rourke with Sol Dacus, on Fourth and Colu[m]bia Road, where did you go?

A. After I saw them on Columbia Road—Fourth Street—that is the question?

Q. Yes.

A. I went to the telepho[n]e and reported to the Chief what I had seen and he[a]rd.

Q. What time was that?

A. That was around 11:0[0] o'clock. I couldn't say for certain. It might have been not quite 11:00,

561 or it might have bee[n] a little after 11:00. I couldn't say just wha[t] time it was.

Q. I understood you to sa[y] that you then proceeded home and got something to ea[t]?

A. Not then.

Q. What did you do after you saw them?

A. I followed up the street and saw where they went to.

Q. What did you do after that?

A. I went and reported to the Chief where I saw them last; as soon as they stepped off the sidewalk, where I saw them last; stepped off the sidewalk into this man's lot, Mr. Williams' office, and I reported it to the Chief, only a short time, then I went back to my work.

Q. As soon as you saw them go to Williams' place you went on about your business?

A. I went back and reported to the Chief where I last saw them.

Q. Then, as a matter of fact, you couldn't positively tell if they entered Wiliams' office?

A. No, sir, I didn't attempt to.

Q. After you reported to your Chief, where did you go?

A. I went on back to the street about my work.

Q. Was there any general excitement around 11:00 o'clock, when you saw Dacus, O'Rourke and Bouchillon, up until 1:00 o'clock.

562 A. There was quite an excitement when they came up the sidewalk; people saw them coming along with this man. They looked at them, and as I came along people were looking at them from their business places, and watching them, and they said—

Q. Don't tell us what anybody said.

A. They looked on as well as I did, a great many of them, and I followed to see where they went to.

Q. At that time you knew the whistle had been blown?

A. I absolutely did not, no, sir.

Q. Now, when did you go to lunch, or dinner?

A. When did I go to dinner? Right around 12:00 o'clock. I couldn't say. It might have been a little be-

fore or a few minutes after. That is my lunch hour. I go off at 12:00 and go back at 1:00.

Q. You stayed at your house an hour for lunch?

A. I didn't stay all the time. I am supposed to have an hour off.

Q. You take a whole hour?

A. For lunch, no, but from 12:00 to 1:00 is supposed to be my lunch hour.

Q. You didn't even hear the whistle blown I understand?

A. I didn't hear the whistle blown, or I didn't pay any attention to it if I heard it. I didn't know anything about it until I reported back at the City Hall.

Q. How far did you live from where that
563 whistle is located?

A. How far do I live now?

Q. No, at the time of the trouble.

A. It must be a mile.

Q. How far were you from the whistle, say at 1:00 o'clock?

A. At 1:00?

Q. Yes.

A. I don't know where I was at 1:00 o'clock.

Q. Did you have a warrant for Dacus' arrest at the time you saw him with Bouchillon and O'Rourke?

A. I did not.

Q. Now, I understand from your testimony that Bouchillon and O'Rourke committed a breach of the peace in your presence, is that right?

A. I considered it that. They defied anybody to interfere with them.

Q. Don't tell us what they said. I asked you if they committed a breach of the peace in your presence?

A. Yes, sir.

Q. Now, if these guns and pistols and cartridges, etc., which you saw in the office and garage, were placed there prior to the killing, you don't know anything about that?

A. They must have been placed there before the killing. They was there when I got there. I didn't carry them there.

564 Q. You don't know who put them there?

A. No, sir.

Q. Would you say that any of the men in the office had put them there?

A. No, sir.

Q. You didn't know?

A. I don't know who put them there.

Q. How far is it from the jail, or from the City Hall, to Williams' place?

A. Well, straight across, it must be about a quarter or a half a mile, yes, half a mile, I think.

Q. How far is the jail, or the City Hall, from where the whistle was blown?

A. About the same distance.

Q. Half a mile?

A. Yes, I think it was about the same distance as it is from the City Hall.

Q. The whistle was situated on the Great Southern Lumber Company's property?

A. Yes, sir.

Q. How many regular police officers had you under the charge of your Chief Magee in the City of Bogalusa?

A. At this time?

Q. At that time.

A. As near as I remember, about six or seven.

Q. Did you have any Deputy Sheriffs there?

A. There are deputies around there sometimes; sometimes they are in town and sometimes they are in the country.

Q. How many, do you know?

565 A. I don't know how many deputies there were, no, sir. I remember seeing some there on certain occasions.

Re-Direct Examination.

By Mr. Dufour:

Q. Chief, there were six or seven police officers?

A. To the best of my recollection.

Q. Were they divided into shifts?

A. Yes.

Q. How many shifts?

A. Two.

Q. Day shift and night shift?

A. Yes, sir.

Q. How many on each shift?

A. Well, there was two supposed to be on Columbia Road at night, one in the day time; one on the North side in the day time and one at night; that is the way we handled the town.

Q. Who were the day men?

A. I was a day man at that time.

Q. Did you ever work at night?

A. Why, yes, I worked often at night during this time.

Q. Was there any occasion for you to work at night during this time?

A. There was considerable.

Q. What was the occasion?

Mr. Higgins:

If your Honor please, he is bringing the same thing up again.

566 A. The upstart that was going on in the City.

Mr. Dufour:
The purpose is to show that conditions were such that the day men had to work also at night.

The Court:
I don't see that the evidence is relevant unless it is connected up with this day, or brought up to the occasion of this shooting.

Q. You were asked, on cross-examination, if a breach of peace was committed in your presence by Bouchillon and O'Rourke on the day is question.

Objection: Mr. Higgins:
I object to any leading questions.

Mr. Dufour:
I am stating your question.

Q. How did you answer that question?
A. I said that there was.
Q. Well, now, state what the breach of peace was.

Objection: Mr. Higgins:
I object to what anybody said. It is purely hearsay testimony.

Mr. Dufour:
Counsel brought out that there was a breach of the peace committed in his presence.

The Court:

I rule that out on the ground that it is inadmissible and immaterial and cannot be gotten in in this way.

Mr. Dufour:

If your Honor please, it has gone to the Jury that there was a breach of peace; it was brought out on cross-examination, and I think it is competent to prove what the breach of peace was.

The Court:

It is for the purpose of having the witness to state what O'Rourke and Bouchillon said at the time they were walking up the street with Dacus; that is the evidence I have ruled out as irrelevant and immaterial, and I will rule this out.

Q. Were these men, on this occasion—state whether or not these men, O'Rourke, Bouhcillon and Dacus, on this occasion, were defying you in the exercise of your authority?

Objection: Mr. Higgins:

I object to that as a leading question, putting the words in the witness' mouth.

The Court:

It is the same question that I have ruled out as immaterial to the question of the killing of Lem Williams, which took place at another time and place and some distance away. I sustain the objection.

568 Mr. Dufour:

I reserve a bill.

T. ABNER MAGEE, being first duly sworn as a witness on behalf of defendants, testified as follows:

Direct Examination:

By Mr. Dufour:

Q. What is your name?

A. T. Abner Magee.

Q. How old are you?

A. I am thirty-six years old.

Q. Where do you reside?

A. In the City of Bogalusa.

Q. How long have you resided there?

A. Since 1913.

Q. What, if any, official position do you occupy in Bogalusa?

A. Chief of Police of the City of Bogalusa.

Q. How long have you occupied that position?

A. Since August 1st, 1915.

Q. Were you acting as Chief of Police of the city of Bogalusa during the month of November, 1919?

A. Yes, sir, I was.

Q. How many men comprised the police force of the City of Bogalusa at that time?

A. I had six men, six regular policemen.

569 Q. What were their names?

A. There was Mr. Flournoy, Branch, Mizell— I don't remember now just who all they—

Q. You don't recall the names of the others?

A. Not of the regular patrolmen at that time.

Q. You can get those names for us?

A. Yes, sir, I can get them.

Q. Will you get the names of the six regular patrolmen and furnish them to us?

A. Yes, sir.

Q. What was the population of the city of Bogalusa at that time?

A. Something like twelve thousand.

Q. What areas did it extend over?

A. Well, it is scattered over, I suppose two miles north and south, maybe more.

Q. Two miles square?

A. Yes, sir, the entire city limits.

Q. Do you know Patrolman Flournoy?

A. I do.

Q. He was on the force at that time?

A. Yes, sir, he was.

Q. What was his beat?

A. He had the south-east side of Bogalusa.

Q. Did you know Sol Dacus in November, 1919?

A. I did.

Q. Where did he reside?

A. He resided on Fourth Street, on the cor-
570 ner of Fourth— Sixth Avenue, I believe it is.

Q. Did you receive any report on the morning, or during the day of November 22nd, 1919, from Patrolman Flournoy?

A. I did.

Q. What was the character of that report?

Objection: Mr. Higgins:

If it is a verbal report, I object on the ground it is hearsay.

Q. Did you talk to him in person?

A. He called me over the telephone.

Objection: Mr. Higgins:

I object on the ground that anything Flournoy said is absolute hearsay.

The Court:

This is the same thing I ruled on a moment ago. Flournoy made a statement, he reported to the Chief; I am going to let this witness say whether he received the report.

Mr. Higgins:

I didn't object to the receipt of the report, but I object to testimony of what the report was that was given him verbally, on the ground it is hearsay.

The Court:

I sustain that objection.

Q. Did you receive a report from Patrolman
571 Flournoy?

A. I did.

Q. What was the character of that report?

Objection: Mr. Higgins:

I object to that as hearsay. He can't tell us what Flournoy told him.

Mr. Dufour:

I want to show that the Chief of Police, acting on the report of his subordinate, did a certain thing, if the Court please. If we are not going to be permitted to show what happened on that day, why, we have no defense at all.

The Court:

This witness cannot state what I have ruled out.

Mr. Dufour:

I am not stating what that man said, but what report he got and what he did in consequence of that report.

The Court:

I will let him answer that, stating what the report was.

Q. What was the report you received?

The Court:

Don't state what Flournoy told you or what somebody else told you.

A. Flournoy told me over the telephone, reported to me—

572 Mr. Higgins:

Now, that is just exactly what Flournoy said to him, he can't say anything else.

The Court:

There ought to be a way of getting from this witness the statement that Flournoy made a report, without stating what Flournoy said.

Mr. Dufour:

All right. I am not trying to circumvent your Honor's ruling. I am trying to show what the report was, what Flournoy reported he saw.

The Court:

I have ruled out testimony to show anything done by Bouchillon and O'Rourke or if they committed, what he said was a breach of the peace in his presence. I won't permit him to testify that Flournoy reported a breach of

the peace had been committed by these men and that he followed them and traced them to the place he says.

Mr. Dufour:

That they were walking down the street with shot guns.

The Court:

I think I ruled out all evidence of what these men were doing or said. I will permit the evidence that he received a report of violation of the law, that Flournoy reported a violation of the law, and then that warrants
573 were issued, and that is where the said evidence is admitted, that he caused the warrants to be issued.

Q. Now, without saying what Mr. Flournoy said, or what anybody said, what did he report to you?

A. That O'Rourke and Bouchillon had just come up the street with Sol Dacus, and that he had followed them to where they went into the lot at Williams' place.

Q. What breach of the peace did he report to you?

A. That they had disturbed the peace.

Q. Did he say they were armed?

A. He did.

Q. What did they say?

Objection: Mr. Higgins:

I object. Your Honor has ruled on that. I think Counsel ought to go by the Court's ruling.

Mr. Dufour:

What we want to show is an unlawful act.

The Court:

Your defense is that you had warrants. Now, you can show that you had warrants. You may show that on the

report of Flournoy warrants were issued, if that is a fact, and show that they were legally issued on that report.

Q. Was any warrant outstanding that day against Sol Dacus?

A. There was.

Q. Did you have a warrant?

574 A. I had the warrant in my possession in the office.

Q. I show you what purports to be the original warrant issued out of the City Court of the City of Bogalusa, on the 21st day of November, 1919, is that the warrant to which you refer? (Document in question handed to witness; witness examines same.)

A. That is the original warrant for Dacus.

Q. You had that in your possession at the time Flournoy made his report?

A. I did.

Q. When you got Flournoy's report about Bouchillon and O'Rourke, what did you do?

A. Well, I immediately sent Mr. Branch, who is my assistant in the office, to Judge Ott's office, to issue a warrant for the arrest of O'Rourke and Bouchillon for disturbing the peace.

Q. Was such a warrant issued?

A. It was, and Mr. Branch brought the warrant back to my office.

Q. I show you what purports to be a certified copy of a warrant to arrest, issued out of the City Court of the City of Bogalusa, on the 21st day of November, 1919. (Document in question handed to witness; witness examines same.)

A. Yes, sir.

Q. I show you what purports to be an original affidavit made by J. E. Branch for the arrest of J.
575 P. Bouchillon and S. J. O'Rourke, in the City Court of the City of Bogalusa, on November 22nd, and I ask you if you will look at that affidavit and state whether you recognize the signature of your Chief Deputy Branch and the Judge before that was— the Clerk before whom that was made. (Document in question handed to witness; witness examines same.)

A. That is Mr. Branch's signature and I. B. Richardson's, he was the Clerk of the Court at that time. That is the docket number on that document also. (Witness indicating.)

Q. Did a warrant issue for Bouchillon and O'Rourke?

A. Yes, sir, it did.

Q. Did you have the warrant in your possession?

A. Yes, sir.

Objestion: Mr. Higgins:

I object on the ground that the warrant is the best evidence.

Q. Where is the warrant now?

A. The warrant was placed on my desk drawer, on the bottom of it, and it stuck to the paint, and I got part of it loose, only the top part of it; I was able to get that loose from the bottom of that drawer.

Q. But you did have a warrant?

A. I did have a warrant with the docket number on that affidavit.

576 Q. Now, when did this warrant issue against Dacus?

A. It was on the 21st day of November, 1919.

Q. That was the day before the killing?

A. Yes, sir, the day before.

Q. Hadn't you attempted to execute that warrant?
A. I did the night before, I mean the night of the 21st.
Q. Did you make any attenpt on the 22nd?
A. I did.
Q. Where?
Q. Well, I instructed Mr. Flournoy that we had a warrant for Sol Dacus and, if he could find him, to get hold of him, if he was by himself or if there were not too many with him, otherwise, no to—

Objection: Mr. Higgins:
I object to anything he said to Flournoy.

Q. Did you make any other efforts to execute that warrant?
A. I didn't— on the morning of the 21st— I mean on the morning of the 22nd, I did.
Q. That is what I am asking.
A. On the night of the 21st and on the morning of the 22nd, I did.
Q. What did you do on the morning of the 22nd in attempting the execution of that warrant?
A. I took Mr. Branch, my assistant, down to Sol Dacus' residence and inquired for him and his wife came to the door and said he was not there.
Q. Did you find him?
577 A. I did not find him.

Objection: Mr. Higgins:
Just a minute. I object on the ground that the testimony is irrelevant, going down to Sol Dacus' in the morning.

The Court:
I understand that it is for the purpose of showing why they went to Lem Williams' house.

Mr. Higgins:
I reserve a bill.

Q. What did you do after you received a warrant for Bouchillon and O'Rourke, on the 22nd?

A. Immediately after I received the warrant I telephoned to Mr. J. B. Lindsley.

Q. Is that the Mr. J. B. Lindsley, one of the defendants who sits in court?

A. He was Commissioner of Public Safety.

Q. He was what?

A. He was Commissioner of Public Safety.

Q. Of the City of Bogalusa?

A. Yes.

Q. Was he a member of the Commission Council?

A. He was.

Q. Are you in his department, or were you in his department?

A. Yes, sir.

Q. You say you telephoned for him?

A. I asked him to come over to my office immediately, I wanted to see him on very important business.

578

Q. Did he come?

A. He did. He came to my office in company with Mr. Jules LeBlanc.

Q. What did you tell him?

A. I told him that we had a warrant for Sou Dacus' arrest and we had him located.

Q. Did you mention Bouchillon and O'Rourke warrants too?

A. Yes, sir, Bouchillon and O'Rourke. I told him I wanted him to go down and arrest these men. We talked it over and we decided we had better call the special officers in order to avoid any serious trouble, because we

knew if we didn't go down there with a sufficient number of men—

Objection: Mr. Higgins:
I object to the opinion of the witness.

Mr. Dufour:
It shows his motive; did he go down for peace or did he go down for murder?

Q. Why did you think it was necessary—

Objection: Mr. Higgins:
Wait a minute, I object as calling for the opinion of the witness.

The Court:
I think the witness can state the reason that he may have had for calling others to go down there.

A. Because of the threats Lem Williams had made before.

579 Objection: Mr. Higgins:
Now, if your Honor please, there you are again. I move that the answer be stricken out and the jury instructed to disregard it.

Mr. Dufour:
He is the Chief Officer of the city. He is presumed, under the law, to be doing his duty in this case. There is no charge against him of participating in this murder. In this petition there is no charge of murder against him; on the contrary he is extolled. It is said that the Chief of Police had nothing to do with this.

(Here follows argument.)

(Jury withdrawn.)

Mr. Dufour:

Here is the specific charge. "That said company had no excuse and no authority to employ this bunch of man killers on the pretext of observing and maintaining law and order, because Bogalusa, whose Mayor is the General Manager or an agent of the Company, had its Chief of Police, and a large force to assist the Chief of Police, and the Sheriff of Washington Parish had given him six or seven deputies, sworn in and acting as Deputy Sheriffs, who were not called upon to act, in any manner, on that day, or at any other time, and that there was no threat-
ened breach of peace; in fact, the Chief of Po-
580 lice and the Deputy Sheriffs in this town did
not participate in this foul murder." Now, what we wish to produce is that the Chief of Police, who says, "I received a report from one of my subordinates that two men were walking down the street, with shot guns, with a negro between them, saying, 'We would like to see any white S— B— who will come and take this man,' or 'We would like to see the eye of any white S— B— who will touch this man—' "

Mr. Higgins:

You have not produced a scrap of evidence testifying to that.

Mr. Dufour:

Now, that is the breach of peace that was reported to the Chief of Police. The Chief of Police, in the exercise of his duty, causes warrants to be sworn out against these men and calls a special police officer, because he only

has three men available. He calls in the Commissioner of Public Safety and special police officers to go and execute these warrants. We will prove by the Commissioner of Public Safety why he himself went. We want to show by the Chief of Police that, fearing trouble, because of the threats of Williams and others, and the acts that had been going on, he and the Commissioner of Public
581 Safety had agreed that he and the Commissioner of Public Safety would call on sworn police officers to come to his assistance, and that is what we are trying to prove. We are also trying to prove that the whistle which was blown was blown by prearrangement of the Chief of Police and the Commissioner of Public Safety with the company. It was the only alarm in the city, and these public officers went to the company and said, "When we need special policemen to assist us in these troublesome times, we would like for you to give the only alarm that can be given in this community, and that is the blowing of that whistle.

The Court:

The specific question up now is whether or not the witness will be allowed to state whether Lem Williams made any threats. In other words, I have permitted the witness to say, by reason of conditions prevailing, he felt, or he thought is was necessary to send a number of officers down there. He has already stated that. I don't think that evidence is admissible except for the purpose of showing that he had information such as made him, as a public officer, deem it necessary to send a body of men. Whatever threats Williams may have made before would have nothing to do with it; if he did nothing at the time, that would not justify the killing.

582 Mr. Miller:

I understand your Honor goes far enough to say that the Chief of Police will be permitted to say that, on account of existing conditions, he felt it proper to send these special officers down instead of the regular police officers. Does your Honor permit us to go further and show why it was that the Chief of Police thought so, not merely to let it stand on its bare, bald statement that he thought it necessary, but to show why he thought it was necessary.

The Court:

I don't think the jury are entitled to know why to the extent that it might prejudice them against Williams, if it is not a defense to his killing. I don't think the evidence is admissible except for the purpose of letting this man state, as an official, the conditions existing and the reports that came to him made him deem it necessary to summons these men to him. Now, what they did after they got there is another question. I will sustain the objection as to the threats of Lem Williams. You understand, Mr. Magee, you are not to state any specific acts or threats but just state that, from conditions, or reports made by your subordinates, you thought it necessary to send a body of men.

583 (Jury brought back.)

By Mr. Dufour:

Q. Why did you think it necessary—

The Court:

The witness made some reference to threats of Lem Williams, and I am going to direct you to disregard that, and I am going to strike it out.

Q. Why did you think it necessary to turn these warrants for Dacus, Bouchillon and O'Rourke over to the Commissioner of Public Safety and special policemen for execution?

A. Well, because I thought with conditions as they were that it would be best to turn them over to the special officers.

Q. What conditions do you have reference to?

A. Well, the trouble, and so forth, that we had had around there for some time.

Q. Was that state of mind based upon your experience?

A. Yes, sir.

Q. Was there any reports made from your subordinates, during that period, which reported that state of affairs— state of mind?

A. Yes, sir, there was, from Mr. Flournoy.

Q. The conditions which you speak of, when you speak of these conditions, do you have reference only to conditions that morning or general conditions?

584 A. General conditions as existing for some time back.

Q. How long back had these conditions existed?

A. Why for a few months.

Q. A few months?

A. Yes, sir.

At this point the further taking of testimony was adjourned until Monday morning, April 27th, 1925, at 11:00 o'clock.

Monday, April 27th, 1925.

T. ABNER MAGEE was called for further examination:

By Mr. Dufour:

Q. Chief, on your examination on Friday, you stated that Patrolman Flournoy had reported to you on the morning, shortly before noon, on November 22nd, 1919, of the doings of O'Rourke, Bouchillon and Dacus on Columbia Road; did you receive any information of those acts from any other sources?

A. I did.

Q. From whom?

A. Mr. O. J. Sherman.

Q. Who is he?

A. The Chief of the Fire Department, and Jimmy Blanch.

Q. Who is he?

585 A. He is— he was in the restaurant business at that time; and several other citizens down there.

Q. Do you recall their names?

A. Mr. Greenburg and Mr. Goldman, and I don't know how many more, a bunch of people.

Q. Did these citizens report to you any breach of the public peace by Bouchillon, O'Rourke and Dacus? on that occasion?

A. They did. They said he was walking up.

Objection: Mr. Higgins:

I make the same objection as I made to the other testimony.

The Court:

Well my ruling was that he could testify to any official acts and any other facts that he himself personally knew, and that made it, in his opinion as an official, advisable to send other men, besides the man holding the warrant to be executed, I don't know whether it is intended to go beyond that ruling or not.

(Jury withdrawn.)

Mr. Dufour:

I wish the stenographer to take this. We tender to prove by this witness that, from his subordinates, as well as from citizens of the community, reports came to him in his official capacity, reports of a menacing
586 nature, not only tending to show that he committed a breach of the public peace, that a breach of the public peace was then being committed, but reports to show that force, if necessary force of arms, would be used to resist the officers in the execution of the warrant which they, at that time, had for the arrest of Sol Dacus.

The Court:

My ruling has been, and so far as I can see I think it is correct, that this witness, who is not one of the defendants but was the Chief of Police, will be permitted to testify that there was a condition, known to him personally or of which he had received reports, which would, in his judgment as an official, make it necessary for him to send for the execution of the warrant more than one, or more than two or as many as he thought it was necessary for the execution of the warrant. So far as the individual defendants are concerned, it seems to me it is entirely irrelevant as to them as to anything other than that they were called upon as special officers, if they were special officers, to assist the regular officers in the execution of the warrant, and I don't think it is relevant to prove any specific acts by any parties like
587 O'Rourke, Bouchillon and others who are not parties to this suit. I have permitted, and will permit, this witness to testify, without stating what the facts were or what the reports were, that he had received, such reports, either from his subordinates, or even from

citizens as made it, in his judgment, advisable to call upon special officers to assist the regular officers in the execution of the warrant.

Mr. Dufour:

We reserve a bill of exceptions to the ruling of the Court.

(Jury recalled.)

By Mr. Dufour:

Q. Chief Magee, will you state whether or not there existed, on November 22nd, 1919 from your knowledge and through reports which you received from your subordinates and citizens, conditions, which, in your judgment, made it necessary that the warrants for O'Rourke, Bouchillon and Dacus should not be executed by a single officer, or the few officers whom you had on your force, but by a force of special police, which you did?

A. There were, yes, sir.

Q. Were such conditions prevalent also prior to that date?

A. Yes, sir, and had been for some time.

588 Q. Now,—don't answer this question—will you please state what those conditions were both on November 22nd, 1919, and some time prior thereto?

Objection: Mr. Higgins:

We object to the witness stating specific facts.

The Court:

The witness may answer the question without stating specific facts, stating what the general conditions were.

Q. Answer the question as to what the general conditions were?

A. Well there was a general condition of a violation of the law, disorder, disturbances, so forth.

Q. Had the police force under your command been able to cope with such disturbances?

A. Absolutely not, no, sir.

Q. What measures, if any, were taken to support you and your force in coping with those conditions?

A. Well, it was necessary to call in the citizens of Bogalusa to assist us.

Q. In what way were those citizens called on for assistance, as special officers or what?

A. Special officers.

Q. Were they sworn as special officers?

A. They were.

589 Q. How long prior to November 22nd, 1919, had the citizens of Bogalusa been acting as special officers?

A. Well, several months.

Q. Were any of the officers, officials or employees of the Great Southern Lumber Company members of that special force?

A. No, sir, they were not.

Q. Did the Great Southern Lumber Company or any of its officers or agents have anything to do with the organization of that force?

A. Absolutely not, nothing at all.

Q. Did they make any suggestion to you concerning the acts and activities of that force?

A. No, sir.

Q. Had those special officers been summonsed to the assistance of yourself and your own force on any occasion prior to November 22nd, 1919?

Objection: Mr. Higgins:

I object on the ground that Counsel is leading the witness.

The Court:

Let the witness answer the question.

A. They were, yes, sir.

Q. How long before November 22nd, 1919, was this instance that you have in mind?

A. Something like a month I believe, the best I can remember.

Q. What means was used to summons the
590 special police force on that occasion?

A. The mill whistle signal.

Q. The whistle was blown on the first occasion?

A. Yes, sir.

Q. By whose direction?

A. By Mr. Lindsley and myself.

Q. What was the occasion of blowing that whistle?

A. Summoning this force.

Objection: Mr. Higgins:

I object to any specific instance.

Mr. Dufour:

You are going to let me show why it was. That is the jail delivery that the jury has already heard about.

Mr. Higgins:

All I am objecting to is any specific acts.

Q. Read the question. (Question read) The first time?

A. Because we had the threat of a jail delivery.

Q. What was the nature of the threat, without mentioning any names?

A. Well, that they would break the jail open and release some prisoners we had.

Q. How many men were in the crowd making the threat?

A. I suppose twenty-five.

Q. Were they in a peaceful attitude?

A. Absolutely not, no, sir.

591 Q. Were they armed?

A. They were armed.

Q. Were the prisoners whom they threatened to deliver members of any labor union?

A. They were.

Q. Did special police assemble on that first occasion?

A. Yes.

Q. What happened?

A. Well, on their arrival, when they began— the special officers began to appear on the scene, why the crowd disbanded.

Q. Was there any violence?

A. No, sir, none at all.

Q. Did the special officers engage in any violence on that occasion?

A. They did not.

Q. What was the signal for the assembling of the special officers?

A. It was six blasts of the whistle.

Q. Who made arrangements for giving that signal?

A. Mr. Lindsley, J. B. Lindsley and myself.

Q. With whom did you make that arrangement?

A. Mr. Cassidy.

Q. Who was Mr. Cassidy?

A. He was Superintendent of the Mill.

Q. Superintendent of the Great Southern Lumber Company?

A. Yes, sir.

592 Q. Did you make— did you and Mr. Lindsley make that arrangement in your capacity as public officers of the City of Bogalusa?

A. Yes, sir.

Q. Did Mr. Cassidy suggest that arrangement or take any part in making it?

A. No, sir, he did not.

Q. Did the Great Southern Lumber Company, or any of its officers or employees have any part in the blowing of that whistle on the first occasion?

A. No, sir, they only blew it when they were requested.

Q. What was the nature of the offense with which the prisoners were charged whom the crowd attempted to deliver on that occasion?

Objection: Mr. Higgins:

Objected to as irrelevant and immaterial, and secondly that it is another attempt to get in specific facts.

The Court:

I think that is irrelevant and sustain the objection.

Mr. Dufour:

I reserve a bill.

Q. Now don't answer this question. Was Lem Williams in this crowd that attempted to make this jail delivery?

Objection: Mr. Higgins:

I object on the ground that it is an attempt to prove general reputation by specific facts; also, that it is immaterial and irrelevant.

593 **Mr. Dufour:**

I will state that he evidence is not offered for that purpose, but it is offe ed to show conditions that existed in Bogalusa back at this period and, therefore, to show that the motive and purpose the public officers and the special officers had on this occasion was only to enforce the execution of he law.

The Court:

This was several weeks or a month before. I think it is irrelevant.

Mr. Dufour:

We reserve a bill.

Q. Chief Magee, I belie e you stated, on Friday, that, after you received the e reports, you telephoned Commissioner Lindsley?

Objection: Mr. Higgins:

I object on the ground it s leading.

Mr. Dufour:

That is what he said. I am just trying to refresh his memory.

Q. Of what department was Mr. Lindsley Commissioner?

A. Commissioner of Public Safety.

Q. Of the City of Bogalusa?

A. Of the City of Bogalusa.

Q. Did Commissioner Lindsley meet you?

594 A. Yes, sir, he did.

Q. Where?

A. He came to my office at the City Hall.

Q. Did you make any statement to him concerning the issuance of these warrants?

A. Yes, sir, I consulted with him about it.

Q. Did you tell him of the reports which you had received?

A. I did.

Q. From Flournoy and others?

A. Yes, sir, I did.

Q. What plan did you and Commissioner Lindsley agree upon for the execution of these warrants?

A. We decided it was best not to have a regular officer—to send one of the regular officers along, with him, in charge of the special officers, to make this arrest, in order to avoid trouble.

Q. How did you summons the special officers?

A. Mr. Lindsley and myself sent Jules LeBlanc over to Major Greer to ask him to give us—

Q. What position did Major Greer occupy?

A. He was Superintendent of the mill at that time, the Great Southern Lumber Company.

Q. Was that the arrangement which you had made with Mr. Cassidy concerning the blowing of the whistle?

A. Yes, sir, it was.

Q. Who was Jules LeBlanc?

A. He was in the automobile business.

Q. In the City of Bogalusa?

595 A. Yes, he was.

Q. Did he work for the Great Southern Lumber Company?

A. He did not.

Q. How long after you sent Jules LeBlanc to order the blowing of the whistle did the whistle blow?

A. Within a few minutes.

Q. What happened after it blew?

A. The special officers assembled at the City Hall.

Q. How many of them?

A. About fifteen or twenty, I don't know the exact number.

Q. To whom were the warrants given for execution?

A. Mr. W. C. Magee.

Q. What was W. C. Magee?

A. He was a special officer employed by the City of Bogalusa and paid by it.

Q. You mean he was a police officer?

A. A police officer, yes.

Q. He was one of the regular men at that time?

A. Yes.

Q. Was he one of these citizen special police?

Objection: Mr. Higgins:

I object on the ground it is leading.

A. He was a regular police officer on the city pay roll.

Q. What was his beat?

A. Columbia Street, Southeast side of Bogalusa.

Q. Day or night?

A. Night.

Q. He was there at the City Hall that day?

A. He was not until a call was sent for him to come to the City Hall.

596 Q. He came to the City Hall after the whistle blew?

A. Yes, sir, after the whistle blew.

Q. Where was he supposed to be at 12:00 o'clock in the day?

A. At his house; he worked at night and slept in the day time.

Q. Were you present when Officer Magee and Commissioner Lindsley and the special police left the City Hall?

A. I was.

Q. How did they leave?

A. They left in cars.

Q. How many of them, approximately?

A. Some fifteen or twenty.

Q. Did you send any other man anywhere on any other mission at that time?

A. I sent Bob Carson out on the highway leading into Mississippi.

Q. Bob Carson?

A. Yes, sir.

Q. Was Bob Carson a special officer?

A. He was.

Q. What was his occupation?

A. He was a merchant.

Q. A merchant?

A. Yes, sir.

Q. In the City of Bogalusa?

A. Yes, sir.

Q. How long had he been a merchant in the City of Bogalusa, so far as you know?

A. I don't know exactly, about four or five years I suppose.

Q. Did you send any one else with him?

A. Nick Jenkins and E. E. Justice.

Q. Who is Nick Jenkins?

597 A. He was also a special officer.

Q. What was his occupation?

A. Why, I don't remember. I think he was driving a truck, or something.

Q. What was Justice's occupation?

A. He was working for Carson at that time.

Q. Carson's place of business?

A. Yes, sir.

Q. Was Justice a special officer?

A. No, sir, he was a citizen.

Q. Was he a member of this special police force?

A. No, sir.

Q. Where did you send him?

A. I sent him out on the highway leading into Mississippi, about a mile or a mile and a half out on the highway leading to Mississippi.

Q. What were they instructed to do?

A. To see that Sol Dacus didn't get out of town; couldn't get out of town, and to arrest him if they saw him.

Q. Did they leave the City Hall?

A. Yes, sir.

Q. Did they go with the other special officers or separately?

A. No, sir, they went there before they did.

Q. Left there before they did?

A. Before the other special officers went out.

Q. Where did you next see Bob Carson, Jenkins and Festus, or Justice, rather?

A. About fifteen or twenty minutes after I
598 had gotten down where this trouble had occurred, at Lem Williams' place.

Q. When did you arrive at the scene of the trouble?

A. It must have been just a few minutes after it occurred.

Q. How did you get notice that there was trouble?

A. Well, E. S. Anderson, a merchant, came over and notified me.

Q. What did you do?

A. I got in the car with him and went down there as quick as I could go.

Q. Where did you go?

A. Down there to Lem Williams' office, where the killing took place.

Q. Did you see Bob Carson when you got there?

A. No, sir, he was not there.

Q. How long after you arrived there did you see him?

A. It must have been fifteen or twenty minutes, I suppose, before I saw him show up there.

Q. What did you do on arriving at Lem Williams' place?

A. Well, I got out and walked in front, and walked back to Lem Williams' office.

Q. Was any one there?

A. No one at all.

Q. Where were the Special Officers?

A. They were on guard outside, in charge of Mr. Lindsley.

Q. Was anybody in the office?

A. No one at all.

Q. What did you find when you got in
599 there?

A. Well, I found Lem Williams lying on the floor, shot, dead—O'Rourke—Lem was laying with his feet in the door, back away from the door, and O'Rourke, I mean Bouchillon, was standing, or lying over by the window that opens to the west side of the office building.

Q. Were there any other persons' bodies in the room?

A. O'Rourke was just outside of the office window, the window that opens to the north side, lying on the ground.

Q. Was he killed?

A. No, sir, he wasn't.

Q. What did you do with him?

A. I picked him up and sent him to the hospital just as quick as I could get him; and Tom Gaines was laying inside the garage, bleeding, right next to the

window that had a work bench in front of the window; he was laying next to it, out in the open, lying on one side of his face.

Q. Did you find any weapons in this office?

Objection: Mr. Higgins:
I object to that as leading.

A. I found, lying by Lem Williams, a forty-five—

Objection: Mr. Higgins:
I object.

(Witness continuing): I found by Lem Williams' side a Forty-five Automatic Colt; over next to
600 Bouchillon was a pump shot gun, with the top shot all to pieces; and just outside, by the window, by O'Rourke, was a double barrel shot gun; in the toilet, just outside the window and back of the building, was two shot guns; in the garage building, by Tom Gaines, was a single barrel shot gun, and in his pocket he had—

Q. Whose pocket?

A. Tom Gaines' pocket. When I picked him up and turned him over there were several shells fell out of his pocket, and on examination it was found he had, possibly, about half a box of shells in his pocket here. (Witness indicating.)

Q. Were there any shells anywhere else?

A. I found in the drawer of Lem Williams' office—the desk drawers were pulled about half way out—there were a Forty-five Army Special, a Thirty-eight Special and two small caliber guns, and a lot of breach loader shells, shot gun shells and thirty-eight and forty-five pistol cartridges in the desk drawer.

Q. Pistol cartridges?

A. Cartridges.

Q. What steps did you take, if any, on arriving there, after you had observed these things?

A. After I arrived there, I looked over the situation and placed a man there to relieve Mr. Lindsley
601 to see that no one came into this building. I examined all the firearms that was there and left them lying there until the Coroner arrived.

Q. Who notified the Coroner?

A. I did myself.

Q. Did you notify anybody else?

A. The Sheriff.

Q. The Sheriff of Washington Parish?

A. The Sheriff of Washington Parish, at Franklinton.

Q. Did they both live at Franklinton?

A. They both lived at Franklinton, the Coroner and the Sheriff.

Q. Did the Sheriff and the Coroner come?

A. They did.

Q. Who got there first?

A. Well, they both came to my office. I think the Sheriff arrived there first, but I am not positive, but I think the Sheriff. I know the Coroner went over with me and I think the Sheriff did too.

Q. To whom were these weapons and firearms given, if any body?

A. After they examined the bodies a Coroner's Jury was impaneled and examined the bodies, and the weapons were turned over to the Coroner.

Q. The Coroner took the weapons?

A. Yes, sir.

Q. You say you turned Gaines over?

A. Well, I just raised him up to see if he was dead,

and that is when the shot gun shells fell out of his pocket.

602 Q. Did he have anything in his hand?

A. No, sir, nothing at all.

Q. Did you know Mrs. Hammond?

A. I did.

Q. How long have you known her?

A. Well since, I suppose, say I have known her since 1914.

Q. Did you see her at Lem Williams' place that day?

A. I did.

Q. Where were you and where was she when you saw her?

A. I was going to Lem Williams' office, after I had been there some time. Mrs. Hammond came from the south side of the lot, after I had gotten out.

Q. Did she speak to you?

A. Yes, sir, she did.

Q. Did you know of the existence in Bogalusa of any bunch of mankillers?

A. No, sir, there were none that I knew of.

Q. Did you ever hear of any bunch of mankillers?

A. No, sir.

Q. Did you ever know of any strong armed bunch in Bogalusa?

A. No, sir.

Q. Do you know of any acts of violence that these special officers ever committed?

A. I don't know of any.

Q. What was the general reputation in the City of Bogalusa, at and prior to the time of this shooting, of Lem Williams for peace and quiet?

A. It was bad.

603 Q. What was the general reputation, in the City of Bogalusa, at and prior to the time of this shooting, of Bouchillon for peace and quiet?

A. It was bad.

Q. What was the general reputation, in the City of Bogalusa, at and prior to the time of this shooting, of O'Rourke for peace and quiet?

A. It was bad.

Q. What was the general reputation, in the City of Bogalusa, at and prior to the time of this shooting, of Tom Gaines for peace and quiet?

A. His reputation was bad.

Q. As Chief of Police of the City of Bogalusa, were you in a position to know what the general reputation of these men for peace and quiet was?

A. Yes, sir.

Cross-Examination.

By Mr. Higgins:

Q. You say there were fifteen or twenty special officers left the City Hall on the day of the trouble, will you kindly name who they were?

A. Well, I don't remember just who they were at this particular time.

Q. Did you know each one of these men personally?

A. Yes, sir.

604 Q. How long have you known them?

A. Well, for several years.

Q. I believe you did say that you commissioned Bob Carson and Wylie Magee as special officers?

A. Yes, sir.

Q. Now, by whom were they commissioned?

A. By the City of Bogalusa.

Q. Acting through whom?

A. The Mayor.

Q. Who was the Mayor?

A. Mr. Sullivan.

Q. Mr. Magee, are you also prepared to testify that Bob Carson and Wylie Magee, at the time of the shooting, were not in the employment of the Great Southern Lumber Company?

A. Well, I know that Wylie Magee was employed by the City of Bogalusa.

Q. You will not testify, under oath, however, that he was not in the employ of the Great Southern Lumber Company on that day?

A. Not that I know of.

Q. Well, you don't know, of your own personal knowledge, whether or not Bob Carson was in the employment of the Great Southern Lumber Company on the day of the killing?

A. No, sir; I don't.

Q. You don't know, of your own personal
605 knowledge whether or not Wylie Magee was also in the employ of the Great Southern Lumber Company on the day of the killing?

A. I don't. The only thing I know was that he was in the employ of the City of Bogalusa. He was on the payroll as a regular patrolman.

Q. How long have you been Chief of Police of the City of Bogalusa?

A. Since the 1st day of August, 1915. I was a patrolman one year on July 4th, 1915.

Q. You say there was no strong armed bunch that you know of?

A. There was not.

Q. Did you ever hear of any trouble between Bob Carson and McCann?

Objection: Mr. Dufour:

Now, if your Honor please, I am just wondering whether he will be allowed to prove specific troubles and

we cannot. We opened the door to specific troubles, and were glad to air the whole thing and the gentleman objected. Now he wants to show specific troubles.

The Court:

I sustain the objection.

Q. Chief, did you find thiss drawer, where you found this revolver, open or closed?

A. Open, pulled about half way out, half way open.

606

Q. How long after the actual shooting before you got there?

A. Some ten minutes, I suppose, just a few minutes.

Q. You don't know, of your own personal knowledge, whether Lem Williamss placed any firearms or ammunition in his office or iin his garage, do you?

A. Not of my own personal knowledge.

Q. You don't know, of your own persnal knowledge, whether O'Rourke placed anyy ammunition or firearms in Lem Williams' office or ggarage, do you?

A. Only by what I heard.

Q. I am asking of your owvn personal knowledge?

A. No, sir.

Q. You don't know, of your own personal knowledge, whether Gaines placed any ammunition or firearms in Lem Williams' office or garagge, do you?

A. No, sir; I don't.

Q. You don't know, of your own personal knowledge, whether Arthur McAllister, cor Armand Bourgeois or Clay Richau, or Jim Williamas placed any ammunition or firearms in Lem Williamns' office or garage?

A. I don't know of my cown personal knowledge.

Q. You found them there fifteen or twenty minutes after the killing, fifteen or twwenty minutes?

A. Something like that.

Q. Then you don't know who placed them there?

A. I know they had been shot, that is all

607 I know.

Q. You don't know—

A. I know they had been used.

Q. You know the guns had been used, do you know when they were used?

A. No, sir.

Q. Do you know whether or not these special officers took an oath?

A. They did.

Q. Was it in writing or verbal?

A. In writing.

Q. Have you still got a record of that?

A. I have.

Q. Could you produce those oaths?

A. Yes, sir.

Q. Were these men ever commissioned?

A. Yes, sir.

Q. You have the commissions, too?

A. Well, I have the oaths.

Q. Have you the written commissions?

A. Well, that is all the commission that is necessary. I have it there.

Q. That is all you have, the oath that they took; you have no written commission signed by the Mayor, showing why these men were appointed special officers?

A. Just the oath of office, a regular commission, that is what that is.

Q. When were these men commissioned?

A. Well, I don't remember the exact date. It was some time in October, if I recollect correctly.

Q. The October of 1902—1919?

A. 1919.

608 Q. Well, prior to the time these men were commissioned, I understand, from your testimony, that you only had six men employed as officers of the City of Bogalusa?

A. Yes, sir.

Q. It was only during October, 1919, that Special Officers were appointed?

A. Yes.

Q. Do you know if these commissions had been revoked or if they were still in force at the time these men went to Lem Williams' place?

A. They had not been revoked.

Q. Do you know that of your own personal knowledge?

A. Yes, sir, I do.

Q. Were these special officers on the payroll of the City of Bogalusa?

A. Yes, sir, some of them were.

Q. Well, who were they?

A. Well, I don't remember the names right now.

Q. You don't remember the names of the ones that were paid by the City of Bogalusa?

A. There was a bunch of special officers, Wylie Magee he was one and R. B. Collett, he was one; Marks Stephens was one and Riley Sibley and M. E. Mixon was one of them, Hart, S. J. Hart, R. E. Bankston; I just don't recall all the names now.

Q. Now, who fixed their salary?

A. The City of Bogalusa.

Q. Acting through whom?

A. The Mayor, or Commission Council.

609 Q. Is it customary, in Bogalusa, for every breach of the peace to be reported to you?

A. Yes, sir; I have written reports, daily reports, made out for that purpose.

Q. Written reports? Was a written report made out to you by Flournoy on this occasion?

A. Yes, sir, that was afterwards. It was made in person, but it had to be made in the shape of a written report later. It was made then by telephone or personal communication.

Q. I understood you to say, on Friday, that you instructed Mr. Lindsley, who was Commissioner of Public Safety, to execute these warrants?

A. I consulted with Mr. Lindsley about it, and it was decided between ourselves that it would be best for him to go down and handle the situation himself, with special officers and one regular officer with the warrant.

Q. Who was the regular officer that went with them?

A. W. C. Magee; Wylie Magee.

Q. I understood you to say, awhile ago, that he was a special officer?

A. Well, he was a regular officer on the payroll; he was on the payroll. There were a lot of men that were commissioned that were not on the payroll, they were called as special officers, but Magee was a regular officer on the payroll; had a regular beat.

610

Q. Well, now, the conditions that you claim, in your judgment, warranted the appointment of these men as special officers, were they based entirely on your own personal knowledge or on what was told to you?

A. On my own personal knowledge and what reports I had, so forth and so on, the trouble we had in Bogalusa.

Q. Were you present at every one of these troubles, for instance, the jail delivery you mention, were you present that day?

A. I was there that day, yes, sir.

Q. Did Magee have a warrant for Lem Williams' arrest?

A. He had a warrant for the arrest of Bouchillon, O'Rourke and Dacus.

Q. Did he have a search warrant to search the premises of Lem Williams?

A. No, sir, it wasn't necessary.

Q. Were you present when the arrangement was made to have the use of the Great Southern Lumber Company's whistle?

A. I was.

Q. What official of the company authorized you to use it?

A. What official?

Q. Yes.

A. Why, we just requested them to use it just like we did in case of fire.

Q. Well, who authorized them to use it for
611 that additional purpose?

A. Well, it wasn't a question of authorizing, we just asked them to do it and they did it.

Q. Who did it?

A. The Commissioner of Public Safety and myself, the Chief of Police asked them to do it.

Q. Asked whom?

A. Asked Mr. Cassidy.

Q. What connection did he have with the Great Southern Lumber Company?

A. Well, he was General Manager, I believe, at that time.

Q. I believe you also spoke of Major Greer in connection with that, was he present?

A. No, he was not present at that time, that I remember.

Q. Well, I understood you to say that you sent Jules LeBlanc to Major Greer?

A. To the power house, yes.

Q. What is that?

A. Sent him to the power house to see Major Greer.

Q. For the purpose of blowing the whistle?

A. Yes.

Q. As a signal to the special officers to assemble at the City Hall?

A. Yes, sir, that is the only means we had to summons the special officers, by the whistle.

Q. Had you previously told each and every one of the special officers what that signal would
612 be?

A. I did; they understood its use.

Q. Did you tell anybody else, besides the special officers, what that signal would be?

A. No, sir, I didn't have any occasion to.

Q. I understood you to say that you had no employee of the Great Southern Lumber Company commissioned as a special officer, is that correct?

A. Absolutely not.

Q. So that if any employee of the Great Southern Lumber Company participated in this shooting—

Objection: Mr. Dufour:

We object.

Q. Wait a minute—he was not at that time a special officer?

Mr. Dufour:

That is a question of law.

Mr. Higgins:

No, it is a question of fact.

The Court:
I don't think that is any more than an opinion.

Mr. Dufour:
I withdraw the objection.

The Witness:
What was the question?

Q. If anybody who was in the employ of the Great Southern Lumber Company participated in this
613 shooting, they were not special officers of the City of Bogalusa?
A. No, sir.
Q. I will ask you this, was Major Greer a special officer of the City of Bogalusa at that time?
A. Major Greer?
Q. Yes.
A. No, sir.
Q. Was Dr. Brister?
A. I don't remember.
Q. A special officer of the City of Bogalusa at that time?
A. I don't remember if he was or not, but I don't think he was. I ain't sure of that.
Q. You think he was not?
A. No, sir.
Q. Was J. B. Lindsley a special officer?
A. He was.
Q. Was Harold H. Wilcox a special officer?
A. He was.
Q. Was David Bienn a special officer?
A. Yes, sir.
Q. Was Lewis Levert a special officer?
A. Yes.

Q. Could you state definitely the exact number of special officers that set out to Lem Williams' place that day?

A. There was fifteen or twenty. I couldn't tell you how many.

Q. Did you tell them where they were to go to execute this warrant?

A. Yes, sir.

Q. Where did you tell them to go?

A. To Lem Williams' where the negro was, where he was supposed to be.

Q. Where the negro was. Did you ever see him at Lem Williams' office that day?

614 A. No, sir, I did not.

Q. You have testified then as to what somebody told you?

A. Yes, sir.

Q. You are testifying from the report that Flournoy gave you that he saw O'Rourke, Bouchillon and Dacus go in Williams' yard.

A. Not only Flournoy, but several others.

Q. You are testifying what others told you and not what you saw?

A. Jim Blanch and Sherwood, Philip Anskatisch, a bunch of them, I don't know just how many.

Q. Now, I believe you said Carson was a night policeman at the time?

A. No, sir, I didn't say that.

Q. What did you say; you said somebody was?

A. I said Wylie Magee was.

Q. You say Wylie Magee was a night officer?

A. Yes.

Q. And you had to summons him from his beat?

A. Well, he had an arrangement with me to summons those special officers and all the regular officers,

I mean the regular officers and special officers that were on the pay roll.

Q. How long after the killing did the Sheriff and Coroner get to the scene of the killing?

615 A. Just as soon as they could drive from Franklinton, twenty-one miles on the highway. It must have been one or two hours, I suppose.

Q. Who did you place in charge of the special officers to execute these warrants?

A. Put in charge of them? I didn't put anybody in charge of them. Mr. Lindsley took charge of them.

Q. Well, now, you placed the warrant in the hands of Wylie Magee?

A. Yes, sir.

Q. You knew Bogalusa had, at that time, a population of twelve thousand people, and had about two square miles of territory to be patrolled, is that correct?

A. Something like that.

Q. Up to October, you had only six officers and yourself to do that work?

A. Yes, sir.

Re-Direct Examination.

By Mr. Dufour:

Q. When these special officers were appointed, in October, or thereabout, in 1919, who was the Mayor of Bogalusa?

A. Mr. Sullivan was Mayor, but Mr. Cassidy was acting Mayor, Mr. E. R. Cassidy.

Q. Was Mr. Sullivan in Bogalusa?

A. He was not in Bogalusa at that time.

Q. How long had he been away?

A. He had been away a couple of months, or
616 more, if I am not mistaken.

Q. The Mr. Cassidy you refer to is the Mr. Cassidy of the Great Southern Lumber Company?

A. No, sir, Mr. E. R. Cassidy.

By Mr. Higgins:

Q. Is he related to the other Mr. Cassidy.

A. Brother.

J. E. BRANCH, being first duly sworn as a witness on behalf of defendants, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. What is your name?

A. J. E. Branch.

Q. Mr. Branch, where do you reside?

A. Bogalusa.

Q. How long have you resided there?

A. Sixteen years.

Q. What is your occupation in Bogalusa?

A. City patrolman.

Q. How long have you been city patrolman?

A. June, 1918.

Q. Were you city patrolman, and acting in that capacity during October and November, 1919?

A. I was.

617 Q. Did you have occasion to cause to be issued any warrants on November 22nd, 1919?

A. I did.

Q. For whom?

A. For Mr. O'Rourke and Bouchillon.

Q. Also Sol Dacus?

A. Yes.

Q. Did any warrant issue against him that day?

A. Yes, sir. I think it was the day before the warrant was issued.

Q. What did you do when you brought the warrants for O'Rourke and Bouchillon?

A. Gave them to Chief Magee.

Q. That is the Chief of Police, Abner, who has just testified here?

A. Yes, sir.

Q. Were you present at the City Hall when Commissioner Lindsley was there?

A. Yes, sir.

Q. Was any call made that day for special police to assemble?

A. Yes, sir.

Q. What call was made?

A. Well there was a call by the fire whistle being blown.

Q. Did the special officers assemble?

A. Yes, sir.

Q. What did the special officers do after assembling?

A. Well, they took the warrant and went to execute it.

Q. How many of them were in the line?

A. Well, there was some twelve or fifteen, possibly twenty.

Q. Did any regular officers, any officials of the City of Bogalusa accompany them?

618 A. Yes, sir, the special patrolman.

Q. Who were they?

A. Mr. Wylie C. Magee.

Q. Any other official?

A. Mr. Lindsley, who was Commissioner of Public Safety.

Q. Mr. Lindsley, Commissioner of Public Safety, as you call it, he was Commissioner of Police?

A. Yes, sir.

Q. Did you go with the special police?

A. No, sir.

Q. How long after the shooting did you arrive on the scene?

A. Some ten, possibly twelve minutes.

Q. Whom did you go with to the scene?

A. Chief Magee.

Q. How did you go over there?

A. I went in a car with him, and I think Mr. Anderson was driving the car.

Q. Mr. who?

A. Mr. A. S. Anderson.

Q. What did you do, and the Chief do, on arriving there?

A. We went inside.

Q. Inside of what?

A. Inside of Williams' property.

Q. Where did you go?

A. We went into the garage and into his office.

Q. The garage and office?

A. Yes, sir.

Q. What did you find in the garage and office?

A. Well, we found Tom Gaines was in the
619 garage. He was dead, and Williams in the office near the front door, and Bouchillon was also in the office near the window, end window of the office.

Q. Were there any others who had been shot?

A. Yes, one other, but they were—I didn't see them.

Q. Did you see O'Rourke?

A. O'Rourke, no, sir, that is—he was either gotten in the car or he was gone. I didn't see him there.

Q. Did you find any firearms in the office or garage?
A. I did.
Q. What were they?
A. Well, there was a forty-five caliber pistol lying on the floor by Mr. Williams, there was a pump shot gun by O'Rourke, and there was a single barrel shot gun near the door of the garage where Gaines was, and there was three or four revolvers in the drawer and some cartridges.
Q. You say there was a shot gun lying near where O'Rourke was lying?
A. No, sir, not O'Rourke, Mr. Bouchillon.
Q. I think you said O'Rourke?
A. Well, if I did, I meant Bouchillon.
Q. Where was Gaines' body?
A. In the garage.

620 Cross Examination.

By Mr. Higgins:
Q. How long after the shooting was it before you got there?
A. Some ten or twelve minutes, something like that.
Q. You arrived with Chief Magee?
A. Yes, sir.
Q. You don't know, of your own personal knowledge, who put the firearms in the office or garage of Lem Williams' do you?
A. They were there when I got there.
Q. I say, you don't know who put them there?
A. No, sir, I didn't.
Q. All you know is that you found them there?
A. Yes, sir.
Q. Did you have any warrant for the arrest of Williams that day?
A. No, sir.

Q. Did you have a search warrant to search his premises?

A. No, sir.

Q. Did you see these special officers when they left the City Hall?

A. Well, I was in the office, in the Chief's office; there were some in the building and some outside. I was in the office.

Q. Did Bob Carson leave with Wylie Magee?

A. No, sir.

Q. Did he leave before or after?

A. Well, I think he left before they went down to Williams' place.

Q. Did you or Chief Magee give instructions
621 to these men?

A. Yes, sir.

Q. Do you know where he sent Carson?

A. He sent him out on the highway leading to Mississippi, about two miles.

Q. Where did he send Magee?

A. He told him to go and execute the warrants on O'Rourke, Bouchillon and Dacus.

Q. What place did he send them to?

A. Down to Williams' place.

Q. How long after the whistle blew was it before these officers got to the City Hall?

A. Well, immediately after. Some of them came a little ahead of the others and some a little bit later, say ten minutes.

Q. Did you know what that signal was for?

A. Yes.

Q. Are you still employed as a police officer of the City of Bogalusa?

A. I am.

Q. Did you see O'Rourke at the time you went to the place of the killing?

A. No, sir.

Q. You didn't see him?

A. No, sir.

Q. You went with Chief Magee, were you not?

A. Yes, sir.

Q. Did you stay with him when he got there?

A. Well, we went in together. In looking around to see things I didn't see him, of course. I didn't see O'Rourke.

622 Q. Did you hear him give any order with reference to O'Rourke?

A. No, sir, I didn't hear them.

Q. Were you in the office at the time Chief Magee was in there?

A. In what office?

Q. Lem Williams' office.

A. Well, I went in there and out. I went into the garage and first one place and another. Of course, I didn't stay right there, as I said, all the time we were there.

Q. What was this office constructed of? Do you know?

A. Williams' office?

Q. Yes.

A. It was 1 x 12 boards, up-end boards.

Q. Up-rights?

A. Yes.

Q. Any weather boarding or ceiling on it at all?

A. No, sir.

Q. Stood right on the ground?

A. Yes, sir.

Q. What kind of openings?

A. Well, there was a door opening out on the south side, and a window on the west side and a window on the back, on the north.

Q. About how long an office is it?

A. Well, I would judge it to be about ten feet wide and possibly twelve to sixteen feet long.

Q. Did it have blinds or shutters on it, on
623 the windows?

A. It had glass windows. I couldn't say if it had shutters.

Q. Did you notice what kind of a door it had?

A. No, sir.

Q. Wasn't it a glass door?

A. I couldn't say if it was.

Q. Now, you received your pay from the City of Bogalusa?

A. Yes, sir.

Q. Now, were you on day or night watch?

A. On the day force.

Q. You were not ordered by Chief Magee to accompany these special officers, were you?

A. No, sir, because my job is at the office, to answer the phone, etc. I hold that position all the time. Of course, I have police duties.

Q. Now, all of these special officers that went to the Williams' place were armed, were they not?

A. I suppose they were.

Q. And they went in automobiles?

A. Yes, sir.

Re-Direct Examination.

By Mr. Dufour:

Q. Mr. Branch, were you present at the City Hall on the occasion that the siren whistle, or fire whistle

blew, about three or four weeks before November 22nd, 1919?

A. Yes, sir, I was.

624 Q. What did it blow for on that day?

Objection: Mr. Higgins:

If your Honor please, I object to that as not brought out on cross-examination.

The Court:

Well, he could recall him.

A. It was blown to assemble the special officers.

Q Did the special officers assemble?

A. Yes, sir.

Q. What was the occasion of assembling the special officers that first time.

A. Well, it was to prevent the Union men from—

Objection: Mr. Higgins:

I object, if your Honor please. I will ask your Honor to instruct the witness to give only the general reason why the signal was given was because of trouble, but not to mention any names or what anybody said.

Mr. Dufour:

I am not asking for any names.

Mr. Miller:

Chief Magee testified that these disturbances were caused by Union men.

The Court:

Don't state any names.

A. Well, it was to keep the jail from being broke.

Q. Who was threatening to break the jail?

625 Don't mention names.

Objection: Mr. Higgins:

I object on the grounds previously asked.

Q. Don't mention any names.

A. Well, we had some men in jail and we was afraid they would come there and let them out.

Q. Why were you afraid?

A. From the threats that were being made.

Q. Were they there?

A. Yes, sir.

Q. Were they armed?

A. Yes, sir, some of them were.

Q. Now, don't answer this. Was Lem Williams in the crowd?

Objection: Mr. Higgins:

I object on the grounds previously asked and as ruled on by your Honor.

The Court:

The same ruling.

Mr. Dufour:

We reserve a bill.

Q. What happened when the special officers arrived?

A. Well, the crowd dispersed.

Q. Did the special officers engage in any violence?

A. No, sir.

Q. What was the general reputation in Bogalusa, at that time, of Lem Williams, for peace and quiet?

A. It was bad.

626 Q. What was the general reputation in Bogalusa, at that time, of O'Rourke, for peace and quiet?

A. It was bad.

Q. What was the general reputation in Bogalusa, at that time of Bouchillon, for peace and quiet?

A. It was bad.

Q. What was the general reputation in Bogalusa, at that time, of Tom Gaines, for peace and quiet?

A. It was bad.

Re-Cross Examination.

By Mr. Higgins:

Q. You say you were afraid they would break into the jail; were you present that day?

Mr. Dufour:

One minute please, Mr. Higgins. I am not through.

By Mr. Dufour:

Q. Did you know Mrs. Hammond?

A. Yes, sir.

Q. Did you see her after you reached Williams' place that day?

A. I did.

Q. When?

A. About, say a minute or two after we got there, she came across the lot in back of Len Williams' place into Williams' place.

Q. Did she speak to anybody?
A. Yes, sir, she spoke to me.
Q. Spoke to whom?
627 A. Spoke to me.

By Mr. Higgins:
Q. You didn't watch Mrs. Hammond all the time she was there?
A. No, sir.
Q. You don't know what she did all the time she was there?
A. No, sir, I couldn't see what she did.

Recess to 2:00 o'clock.

After recess.

J. B. LINDSLEY, being first duly sworn as a witness on behalf of the defendants, testified as follows:

Direct Examination.

By Mr. Dufour:
Q. What is your name?
A. J. B. Lindsley.
Q. Mr. Lindsley, how old are you?
A. 37.
Q. What is your present occupation?
A. I am President of the Washington Bank & Trust Company at Bogalusa.
Q. How long have you been President of that Bank?
A. Since its organization, in 1914.
Q. Has the Washington Bank & Trust Com-
628 pany any branches in the Parish of Washington?

A. They have. Its domicile is at Franklinton, Louisiana. They have a branch at Bogalusa and one at Angie, Louisiana.

Q. What are the assets of that bank?

A. Pretty close to a million dollars right now.

Q. Are you presently connected with any banking operations anywhere else?

A. I have been doing special work for my friend, Mr. Dinkins, President of the Interstate Bank, at Brownsville, Texas; Vice-President of the First National Bank at Brownsville.

Q. You are Vice-President of the First National Bank at Brownsville?

A. Yes, sir.

Q. Is the Interstate Bank & Trust Company interested in the Washington State Bank?

A. Mr. Dinkins, the President, is a stockholder.

Q. Is the Great Southern Lumber Company interested in the Washington State Bank?

A. They are in no way interested. They don't even deposit their monies there.

Q. Have they ever been interested in that Bank?

A. Never have.

Q. What is the other Bank in Bogalusa?

A. The First State Bank.

Q. You were President of the Washington
629 Bank & Trust Company during the year of 1919?

A. Yes, sir.

Q. Did you occupy any other position in the City of Bogalusa?

A. I am Commisisoner of Public Health and Safety.

Q. Did you occupy that position on November 22nd, 1919?

A. I did.

Q. Do you occupy, at the present time, any official position in the City of Bogalusa?

A. I am still Commissioner of Public Health and Safety.

Q. Have you been holding that position continuously since 1919?

A. I have.

Q. Where is your home at present?

A. Bogalusa.

Q. Have you any family?

A. I have a wife.

Q. Any children?

A. No children.

Q. Do you own your own home?

A. I do.

Q. Where?

A. Bogalusa, Louisiana.

Q. Did you own your own home at that time?

A. No, I built it since then.

Q. Did you have occasion, on November 22nd, 1919, at or about noon of that day, to confer with Chief Magee with respect to any official business?

A. I did. He rang me up at my bank about noon and I walked over there, stopping at LeBlanc's Garage and got Jules LeBlanc, and he went over there with me.

Q. Jules LeBlanc?

A. Jules LeBlanc. When I got there Chief Magee called me into consultation and reported that
530 certain things had transpired on Columbia Road, which made certain arrests necessary, the arrest of Sol Dacus, Bouchillon and O'Rourke.

Q. Did he tell you what they had done, what they were reported to have done?

Objection: Mr. Higgins:

I object to anything he told on the ground of hearsay.

The Court:

Let him answer whether or not he did make a report.

Mr. Dufour:

I asked him if Chief of Police Magee made any report to him about the occurrence on Columbia Road that day, and he said, "He made a report to me about Sol Dacus."

The Court:

Tell him not to say what he said. Mr. Magee was not permitted to tell the details until Mr. Higgins was given a chance to object.

Q. What was the nature of the report which Chief Magee made to you?

A. Do I understand no names are to be mentioned, your Honor?

The Court:

Yes. The ruling is that you are not to state the details, except he reported, the Chief reported,
631 to you the condition of affairs and the necessity of doing whatever was done.

A. The Chief consulted me about the occurrence that had happened on Columbia Road that day. He gave me the details of that occurrence and asked my advice about the best way to effect the arrest of Bouchillon, O'Rourke and Sol Dacus, who, it had been reported, were in an armed state, resisting the constituted authorities. There had been a good many troubles in Bogalusa at

that time, and the City was in a state of anarchy, and the constituted authorities were unable to cope with the situation.

Objection: Mr. Higgins:

If your Honor please, I think that is an opinion of the witness, and it is not responsive to the question.

Q. Tell us what happened that day when you went into conference with Chief Magee on the question of making these arrests?

A. The Chief and I decided that it would be best for the Special Police to make the arrests. At that time there were three divisions of constituted authorities; one of them was the regular police who had been on the pay roll for some time; then there was another, special police, who were also on the pay roll; then
632 finally the volunteer police force, on account of the fact that the regular police force had been unable to maintain order previously. It was decided by us that we would avail ourselves of the use of the volunteer force, assisted by such other officers that happened to be present, to make this arrest.

Q. Was this volunteer force, as you call it, special officers?

A. Yes, sir, it was.

Q. Had they been sworn as such?

A. They had been. They were sworn by Ed Cassidy, Acting Mayor of the City of Bogalusa, some time in October.

Q. Well, now, why did you and the Chief believe it would be best to effect this arrest by the aid of the special police force?

A. For two reasons. First, because the regular police force was inadequate to cope with the situation,

as had been determined by previous evidence, and secondly, because we had reports to the effect that these men were armed and prepared to resist arrest, in case arrest should be attempted.

Q. Having reached that conclusion, what did you do?

A. We sent Jules LeBlanc over to summons the special police.

Q. By what means?

A. By means of the fire whistle, which was the means we had previously adopted.

Q. What agreement, if any, was there with
633 the Great Southern Lumber Company for the use of that fire whistle?

A. Mr. Magee and myself, the Chief of Police and myself, made arrangements for its use.

Q. Had it ever been used on any previous occasion?

A. One previous occasion it had been used.

Q. When was that?

A. That was, I don't remember the exact date—it was some two or three weeks before that they were called out for the same reason, that the police were unable to cope with the situation.

Q. What was that reason on the first occasion?

A. There was an attempt of armed men to besiege the jail and take out some men who had been arrested, and who they were determined to take out by force and not by legal methods.

Q. What signal was given for summonsing the special police on the first occasion?

A. The same signal as on the second occasion, six blasts at intervals; there was two—two and two. That was the signal.

Q. Did special police assemble on the first occasion?

A. They did.

Q. What happened after they assembled?

A. The mob which was trying to storm the jail, which threatened to storm the jail, dispersed. They were intimidated by the fact that they saw that the
634 police were going to have plenty of assistance and they returned about their business.

Q. Did the police, the special police, or any of the police referred to, do any violence on that occasion?

A. Of course not, nor on any other occasion.

Q. Now, returning to November 22nd, 1919, after commanding Jules LeBlanc to give the signal for the assembling of the special police, what happened?

A. The special police came.

Q. Where did they come?

A. They came to the City Hall, which was the agreed upon place.

Q. Who were there?

A. I was there. I personally took charge of the policemen, and went with them to effect the arrest.

Q. Did any regular police go with you?

A. Wylie Magee had the warrant. He was given the warrant either by me or the Chief, I don't recall which, but it was at my suggestion.

Q. Was he on the pay roll of the City as a patrolman?

A. He was a special officer on the pay roll of the city.

Q. Had he been for some time previous?

A. For several weeks, or two or three months before.

Q. Did you go in command of this force?

A. I did.

635 Q. Where did you go?

A. Right down to Columbia Road, to Lem Williams' place, to his office.

Q. Now, tell us what happened after you got there?

A. When we got there, the police force, about fifteen or twenty of us, about twenty, I should say, got out of the cars, and we went into the main gate, and I instructed Jules—

Q. Jules whom?

A. Jules LeBlanc. I instructed Jules LeBlanc and Wylie Magee to make the arrest, and gave them six or seven officers to assist them. There was, at that time, a crowd of people at this place, and I put some men on guard to protect these spectators from coming in.

Q. Why were there so many spectators?

Objection: Mr. Higgins:

I object to the opinion of the witness as to why there were so many spectators.

Q. Was there a great number of spectators?

A. Yes, sir.

Q. How many, would you say?

A. When we first came to the property probably twenty-five or so were there. They beat us to it, or got down there at the same time.

Q. Then what happened?

636 A. As I went into the gate, in order to keep these spectators out, I put on a couple of guards. At that time there was Mrs. Lem Williams and some other lady came running out of the gate and went on down the street. I proceeded to walk in and I heard Wylie Magee yell out, "We have got a warrant for your arrest," and then he said, "Put down that gun," and some one shot out of the office, and then there was a general fusilade from both sides at Lem Williams' office.

Q. Where was Mrs. Williams during the shooting?

A. She was past the place, out of the gate. She didn't return during the shooting.

Q. Was she able, from the position in which she was—

Objection: Mr. Higgins:

I object on the ground that is an opinion of the witness.

Q. Was she within ear-shot of Jules LeBlanc and Wylie Magee and these other men who were up in front?

A. No.

Q. She was not?

A. No, sir, she was not.

Q. How far from them was she?

A. As I walked in she went out the gate; ten or fifteen in, and then this shooting took place, and she passed me going down another way. Apparently, she had gone quite a distance ahead.

Q. What was your purpose in going to Lem Williams' place of business that day?

637 A. To effect the arrest of Sol Dacus and these two white men who marched with him through the streets of Bogalusa, in an unpeaceful manner.

Q. Did you have any intention to do any person any violence?

A. Absolutely not.

Q. Did you go there to kill anybody?

A. Certainly not.

Q. Did you excite any trouble?

A. None whatsoever. In fact, we tried to avoid trouble by taking enough force to intimidate them.

Q. Were any of the officials of the Great Southern Lumber Company, or any of the employees of that company, members of that police force, special police?

Objection: Mr. Higgins:
I object on the ground it is a leading question.

The Court:
It is leading to a certain extent. I will ask Counsel to change the form of the question.

Mr. Higgins:
He can answer.

Q. Go ahead?
A. What was the question?
Q. Read the question. (Question read.)
A. They were not. The members of this police force were the best citizens of Bogalusa—special police.
Q. What was the standing and reputation in Bogalusa of the citizens who constituted that police
638 force?
A. The volunteer police? They were the best citizens of Bogalusa; the best citizens and best men in that town.
Q. Was Mr. Levert a member of that police force?
A. He was.
Q. What is his business in Bogalusa?
A. He is the owner of the laundry of Bogalusa.
Q. Was Mr. Wilcox a member of that police force?
A. He was.
Q. What is his business?
A. He is a merchant in Bogalusa.
Q. Was Mr. Beinn a member of that police force?

A. He was. He was a furniture dealer in Bogalusa; he was at that time. He has since moved from there.

Q. Will you mention some of the other men who were members of that police force, and what their occupation was?

A. W. B. Gilbert, an Insurance man there; A. T. Willis, the Engineer of the City; M. Bernstein, leading merchant of the city; M. Marks, Hardware Dealer in Bogalusa, and men of that caliber. I can't remember them all.

Q. Was Mr. Caldwell a member of that force?

A. Mr. Caldwell was a member also.

Q. What was his occupation?

A. General Contractor.

Q. Were any of those men connected with the Great Southern Lumber Company?

A. None that I know of.

639 Q. Was Jules LeBlanc a member of that force?

A. He was. He was an Automobile Dealer in Bogalusa.

Q. An Automobile Dealer?

A. At that time, yes.

Q. Does he reside there now?

A. Now, no. He has left there since.

Q. Do you know what his present business is?

A. Automobile dealer at Kenner, I think.

Q. What relationship, if any, did the Great Southern Lumber Company have to this special police force?

A. Absolutely none.

Q. Did they organize it?

A. Certainly not.

Q. Did they have any control over the force?

A. No, sir, not a bit.

Q. Did any official of the Great Southern Lumber Company have anything to do with the assembling of that force on that day, or otherwise?

A. Absolutely not. I never consulted with them about the conduct of my department then any more than I do now.

Q. What was that last?

A. I say, I never consulted with them about the conduct of my department then any more than I do now.

Q. After the shooting took place—well, first coming back to the shooting—you sent these men whom you have named up to make the arrest?

A. I did.

640 Q. Will you state what any of these men said to Williams or any other occupant of the office when they went up there?

A. I have already stated these men who were assisting—of course, I couldn't see the office from where I was standing. I was in a line with the window, the west window of the office, and from where I was standing, in that direct line, it was impossible to see into the doorway of that office.

Q. But you could see Wylie Magee and LeBlanc?

A. I could see Wylie Magee and Jules LeBlanc, and I did see Tom Gaines when he ran into the office, into the garage, and I heard Wylie Magee say something about a warrant, and the next thing I heard was, "Put down that gun," and then there was a shot came from the office, and then there was a general fusillade.

Q. Where did the first shot come from?

A. From the office.

Q. You are positive of that?

A. Positive by the sound; it sounded as if it came from a closed room.

Q. What disposition did you make of your men after the shooting?

641 A. As soon as the shooting was over I placed guards around the house to keep people from going into it and allowed no one to pass in except Mrs. Lem Williams and the lady that was with her, I think her sister. They came up to the front gate, where I was standing with some of the guards, and they were crying, naturally as they would under such circumstances as that, and I thought it was best to let them in, and I did that. They were absolutely the only persons we let in.

Q. How long was that after the shooting?

A. That was immediately after the shooting; as quick as I placed the guards.

Q. How long after the shooting was it they came up?

A. About five or ten minutes.

Q. Did you see Tom Carson?

A. Bob Carson, you mean?

Q. Bob Carson, yes?

A. Bob Carson wasn't there until fifteen or twenty minutes after it was all over.

Q. Where was Bob Carson?

A. I don't know.

Q. Did you see him at the City Hall?

A. I did not.

Q. But are you sure he wasn't there?

A. He was not there, absolutely; I am positive of that.

Q. Was Nick Jenkins there?

A. No, sir, he wasn't there either.

Q. Was Justice there?

642 A. I don't know him; I couldn't say.

Q. You don't know him?

A. No, sir.

Q. Was Dr. Brister there?

A. I didn't see Dr. Brister until after it was over and I had sent for some doctors, and my recollection is that he came up in response to that call.

Q. Did you go in the office after the shooting?

A. I did not(?)

Q. Did you go inside of the garage?

A. I did go inside of the garage.

Q. When did Chief Magee arrive on the scene?

A. He arrived there almost immediately; not over, I think, not over ten minutes after the shooting occurred—was over with.

Q. What did you do after Chief Magee arrived?

A. I stayed there for probably thirty minutes, until all of the wounded men were removed and Jim Williams was placed in the custody of the officers, then I went back over home, or to the Bank, I don't remember which.

Q. What was Lem Williams general reputation in Bogalusa, at that time, for peace and quietness?

A. Bad, very bad.

Q. What was O'Rourke's general reputation in Bogalusa, at that time, for peace and quietness?

A. He was known as an associate of Lem
643 Williams. Also very bad.

Q. What was Bouchillon's general reputation, at that time, in Bogalusa, for peace and quietness?

A. He was in the same category.

Q. What was Tom Gaines' general reputation in Bogalusa, at that time, for peace and quietness?

A. Tom Gaines' reputation was the worst. He was reputed to have—

Objection: Mr. Higgins:

I object on the ground that he has testified that his general reputation was bad, and now he wants to tell us something he did.

The Witness:
Can't I say how he got his reputation?

Mr. Higgins:
You can say his general reputation is bad, but you cannot tell any specific act of his.

Q. Were you ever run out of Bogalusa?
A. Not yet, still have to be.
Q. Are you still a public official?
A. Still a public official.
Q. Are you still President of the Bank?
A. Still President of the Bank.
Q. When were you there last?
A. I was there Saturday and Sunday.

644 Q. When were you elected to the position which you now hold last?

A. About two years ago, two years last December.

Q. Who was your opponent on that occasion?

A. Well, I hadn't—we had a complete ticket of opponents, who were reputed to be put up by the Great Southern Lumber Company—

Objection: Mr. Higgins:
I object on the ground it is immaterial and irrelevant.

Mr. Dufour:
I just want to show that he was opposed by the Great Southern Lumber Company.

The Court:
I don't think that is material.

Q. Was your father ever run out of Bogalusa?
A. No, sir; he was not.

Mr. Dufour:
Rowan said he was. That is why I am asking him.

The Witness:
That is just what is to be expected from Rowan, an absurd statement like that.

Mr. Higgins:
If your Honor please, I ask that that be stricken from the record.

The Court:
I didn't hear the answer; what was the answer?

(Answer read).

The Court:
I don't think that ought to stay in the record, and I will direct the jury to disregard it. Strike it out.

645 Q. Was Jesse Johnson a special policeman?
A. He was.
Q. What was his business?
A. He was a lawyer at Bogalusa.
Q. Is he the lawyer for the Great Southern Lumber Company?
A. No, sir, he was not.
Q. Was S. G. Mullen a member of the special police?
A. He was.
Q. What was his business?
A. He was an employee of the N. O. & G. N., clerk.
Q. Was Dr. Brumfield a member of the special police?
A. He was.
Q. What was his business?
A. He was a dentist in Bogalusa.

Q. Was Mr. A. F. Poole a member of the special police?

A. He was.

Q. What was his business?

A. He was an undertaker in Bogalusa.

Q. Was Mr. H. M. Hadley a member of the special police?

A. He was.

Q. What was his business?

A. He owned an hotel at Bogalusa at that time.

Q. Was Mr. A. E. Knight a member of the special police?

A. He was.

Q. What was his business?

A. He was a jitney driver, I think.

646 Q. Was Mr. J. S. House a member of the special police?

A. He was.

Q. What was his business?

A. He was representative of the Standard Oil Company.

Q. Was Mr. A. L. Bowles a member of the special police?

A. Mr. A. L. Brill?

Q. Yes.

A. He was.

Q. What was his business?

A. He was in the automobile business.

Objection: Mr. Higgins:

At this time, I want to make objection to any police officers being named who did not participate in the shooting, because it would be immaterial and irrelevant.

Mr. Dufour:

The purpose is to show what this police force was, that it was a party of citizens.

The Court:

Let him examine the witness.

Q. Was Mr. O. B. Magee a member of the special police force?

A. He was.

Q. What was his business?

A. Cashier of our bank there.

Q. Mr. T. O. Knight, was he a member of the special police?

A. He was.

Q. What was his business?

A. He was a jitney driver.

Q. Was Mr. F. W. Watts a member of the special police?

647 A. He was.

Q. What was his business?

A. He was manager of the big grocery of Green & Co.

Q. Did you have any personal ill will towards Lem Williams or any of these men?

A. None whatsoever.

Q. Had the members of your force been engaged in any acts of violence or gun work?

A. Special Police? No.

Q. Did you know of the existence in Bogalusa at that time of a "strong arm bunch"?

A. I did not.

Q. Did you know of the existence in Bogalusa at that time of any bunch of man killers?

A. I did not.

Cross Examination.

By Mr. Higgins:

Q. How many special officers in all did you have?

A. We had about fifty.

Q. Fifty?

A. Fifty of the volunteer force, and then there were six special paid officers, I think, and six regular officers, I recall.

Q. Now when was it that you commissioned the fifty volunteer officers?

A. I didn't commission them.

648 Q. Who commissioned them?

A. Mr. E. D. Cassidy, acting as mayor of Bogalusa.

Q. Did you recommend the commissioning of those men?

A. The citizens recommended themselves to Mr. Cassidy; they offered their services and he accepted those services.

Q. You and Chief Magee didn't go to Mr. Cassidy and tell him it was necessary to have that many men, did you?

A. No, we didn't; he knew it, didn't have to be told.

Q. He knew it? What relation is Mr. Cassidy, who was acting as mayor of Bogalusa, to the Cassidy that is connected with the Great Southern Lumber Company?

A. Brothers.

Q. And what is the connection between that Cassidy and the Great Southern Lumber Company?

A. He is the general manager, I think.

Q. Jack Cassidy?

A. Mr. Jack Cassidy is the assistant general manager, as I understand it.

Q. And he is a brother to Ed. Cassidy who was acting as mayor of Bogalusa?

A. Yes, sir.

Q. Now who commissioned the six special officers that were paid?

A. The Commission Council.

Q. And who commissioned the regular police force?

A. The Chief himself hired the regular ones.

Q. He hired them himself?

A. Yes; conditions were so bad, it was necessary to increase the force, and the Commission Council put these additional men on.

Q. Now did these men all take oaths of office?

A. I can't say of my own personal knowledge.

Q. You are the Commissioner of Public Safety?

A. Public Health and Safety.

Q. And you kept no records of that?

A. There is records in the office, yes.

Q. Would you be kind enough to produce those here, the oaths you administered to those different men that were special officers of the City of Bogalusa?

A. Haven't got them with me, but I can get them, I guess.

Q. Were these men, in addition to being sworn, given a commission as officers of the law?

A. Which men?

Q. These special officers.

A. Do you mean the paid officers or the volunteers?

Q. The volunteers.

A. They were sworn in as special officers by the acting mayor of the city, Mr. Cassidy, and that oath was subscribed, as I recall.

Q. Were you present when that was done?

A. I was.

Q. Now do you know whether or not a written commission was given to these special volunteer officers which certified that they were special officers?

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A. The only thing I know is, they were sworn in by Acting Mayor Cassidy.

Q. Who keeps the records of the oaths and the commissions of the special officers of the City of Bogalusa?

A. The special officers?

Q. Yes.

A. I presume they are in the police records.

Q. You presume, but you are the Commissioner of Public Safety, are you not?

A. Certainly I am; also I am president of the Washington Bank & Trust Company, but I don't count the money that comes in over the counter, and neither do I maintain all the records in the police office.

Q. Well, who keeps those records?

A. We have men employed for that purpose.

Q. In what office is that?

A. The Chief's office.

Q. Chief Magee?

A. Chief Magee.

Q. Were the six special officers commissioned by the City of Bogalusa too?

A. They were.

Q. Were those commissions issued in written form?

A. I can't tell you about that. All I know is they were sworn in.

Q. They were sworn in by taking a written oath?

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A. Written oath.

Q. Before a notary public?

A. Before a notary public.

Q. Now the six regular officers, they were sworn in by whom?

A. By the Chief.

Q. And did he issue them commissions, do you know?

A. I don't know how he handled those regular men; he takes care of them himself, he employs all of his own force.

Q. Who issued the warrant for the arrest of Sol Dacus?

A. I can't tell you of my own personal knowledge. The warrant was there when I arrived, already had been issued.

Q. Do you know who issued the warrant for the arrest of Bouchillon and O'Rourke?

A. I wasn't there when they were issued. They were already issued when I got to the City Hall. I didn't see them issued. I know that they were issued, I saw them and hand them in my hand while we were discussing this matter.

Q. Now what was the charge, do you know, do you remember that?

A. Well, it was creating a disturbance; something of that kind.

Q. Is that a very serious offence?

A. No; it is not a serious offense, but the serious part was the threats that they couldn't be arrested. That was serious. The law should be supreme.

Q. Were you present when these threats
652 were made?

A. I have been present when such threats were made, yes.

Q. I am asking you about the day these warrants were issued?

A. No, I wasn't present that day.

Q. You don't know, as a matter of fact, whether there was any threats made that day?

A. Except from the police department; that is all.

Q. News furnished by some outsider; isn't that it?

A. Furnished to me by the Chief.

Q. Well, who furnished the chief that information?

A. Well, you have already got that evidence here.

Q. That is what I am getting at; you and the Chief got that information from somebody else?

A. Exactly.

Q. The fire whistle that you spoke of—is that the siren whistle of the Great Southern Lumber Company?

A. No; it is the special whistle, the fire whistle.

Q. It is not called the siren whistle?

A. No; the siren whistle is another one.

Q. What occasion was that fire whistle usually blown, for what purpose?

A. To summon the fire department to fires.

Q. Was that the only occasion on which it was used for the Company's purposes?

A. That was used for the city's purposes.

Q. All right. Now what purpose did the company have it for?

A. Oh, the company; they used it for signal-
653 ing, to bring the men to and from work.

Q. Were you present at the jail the day you testified that there was an attempt to make a jail delivery?

A. Yes, sir; I came up there myself at that time.

Q. Were you there at the time it happened or afterwards?

A. I was there when the men were dispersing.

Q. Who was in charge of the men, the volunteer policemen, who dispersed that mob?

A. The policemen; the Chief of Police himself was there when I got there, when I took a hand.

Q. There was no trouble that day, was there?

A. Not after the police got there, there was no trouble, no.

Q. And the people went on, every one about his business?

A. With shot guns in their hands, yes.

Q. Well, did you have any of the mob arrested for any trouble that day?

A. We had so many arrested then, I don't recall; made a good many arrests during those times, but I can't say whether they were made on that particular occasion or not.

Q. Did you have an ordinance against men carrying shot guns?

A. Yes, sir.

Q. In the streets?

A. So far as that goes, there was an ordinance against carrying concealed weapons.

Q. You wouldn't call carrying a shot gun on
654 the street carrying a concealed weapon?

A. No.

Q. As a matter of fact, you know there is no state law, or any state law, against a man carrying a shot gun, when he carries it in the open?

A. There is no law against carrying a shot gun in the open that I know of, but there may be a law against a whole mob of them carrying them all at one time and threatening to storm the jail—I should say there would be a law against that.

Q. Sure, absolutely. Have you ever worked for the Great Southern Lumber Company?

A. Never have.

Q. Can you testify of your own knowledge that Wiley Magee was not in the employment of the Great Southern Lumber Company on the day of this shooting?

A. The only thing I can testify to is he was on the city pay roll.

Q. You can't testify he was not also on the payroll of the Great Southern Lumber Company?

A. No, sir; I have not seen their payroll.

Q. Can you testify of your own knowledge whether or not Bob Carson was on the payroll of the Great Southern Lumber Company the day of this killing?

A. I can not.

Q. Now you say you took fifteen or twenty
655 officers there the day of the killing?

A. Took twenty officers down there to make this arrest.

Q. I mean to the place where the killing took place.

A. Yes.

Q. Did you have a warrant for the arrest of Lem Williams?

A. No, I didn't.

Q. Did you have a search warrant to go on the premises of Lem Williams?

A. No; these were the only warrants we had, for the arrest of Sol Dacus and Bouchillon and O'Rourke.

Q. You say there were twenty-five or thirty people that beat you to the scene of the shooting; is that correct?

A. About that many people there when I got there.

Q. Were those, as you say, spectators?

A. That is what I considered them to be, spectators.

Q. To whom did you give this information about the special signal of that whistle?

A. To whom did I give the information; to the members of the Police Department.

Q. To the members of the Police Department only?

A. The volunteer members, yes, sir.

Q. You don't know of anybody else that had that information?

A. No, I don't.

Q. You say you expected no trouble that day?

A. I expected no trouble; went fully equipped to avoid trouble.

656 Q. And so you brought such a force that you were satisfied you could intimidate these people and make them submit to arrest?

A. The ones that we were going to arrest, yes, as had happened on previous occasions.

Q. If you expected no trouble, why did you go on the property of Lem Williams?

A. It was necessary to go on his property to make the arrest.

Q. You had no warrant for Lem Williams' arrest?

A. No.

Q. You had no search warrant to go on his property, had you?

A. We had the reports that these men were there.

Q. But you had no search warrant, had you?

A. Oh, none, absolutely.

Mr. Dufour:

I don't know that a search warrant is necessary for an officer who is armed with a warrant for the arrest of an individual.

Mr. Higgins:

We will battle that out before the Judge and the Jury.

Mr. Dufour:

The Jury has nothing to do with it.

Q. Now you said Mrs. Williams was not within hearing of the gun shots?

A. No; I didn't say that.

Q. Well, what did you say, with reference to that?

A. I said she was not within hearing of the remarks that went on at the door.

657 Q. How far were you from the door?

A. I was coming up towards the boat, and by the time I got to the boat, the shooting started.

Q. How far was the boat where you were standing from the door in which Lem Williams was shot?

A. I should say about thirty or forty feet.

Q. You could hear it?

A. I could hear the conversation, yes.

Q. Did you ever have any personal difficulty with Gaines or O'Rourke or Williams?

A. None whatsoever.

Q. Is it the custom in Bogalusa for the Commissioner of Public Safety to take charge of the police force?

A. Not customary in ordinary times, but these were not ordinary times. These were times of particular stress, when the constituted authorities had been threatened and it was an unusual condition, bordering on anarchy, where people without authority were attempting through threats to take over the reins of the government, and to end that condition of affairs, I felt I was justified in acting as I did.

Q. Is it customary for the Chief of Police to stay at the City Hall when you attempt to arrest persons of that character?

A. The same answer applies.

658 Mr. Dufour:

If your Honor please, that is a question of opinion.

The Court:
Go ahead.

Q. All right. Answer the question.
A. Not under ordinary conditions, but as I have already stated, it was an extraordinary condition, in which I felt it was incumbent on me to take charge, and I did take charge.
Q. The Chief was paid for that kind of service, was he not?
A. Yes, sir, certainly.
Q. As Commissioner of Public Safety—you were not paid for that kind of service?
A. I was getting paid as Commissioner.
Q. As Commissioner of Public Safety?
A. Yes.
Q. Now you say the best citizens of Bogalusa were given commissions as special officers?
A. Yes, sir.
Q. What was the general reputation of Wiley Magee in Bogalusa for peace and quiet?
A. Wiley Magee was known as a fearless officer. For that reason I called upon him on this occasion.
Q. That is not an answer to my question. Is his reputation good or bad, his general reputation?
A. He is known as a fearless and dauntless officer, and as such is feared.
Q. Is his reputation good or bad, his general reputation?
A. His reputation is all right.

A. His reputation is all right.
658½ Q. You consider it good?
A. I do.

Q. Do you consider his reputation as good as any of the other special officers that you have testified their general reputation was good?

Objection: Mr. Dufour:
If your Honor please, that is a matter of opinion.

The Court:
I think the witness can answer.

Mr. Dufour:
I reserve a bill.

A. You just desire that I draw a line of distinction, and place all the citizens in a row, placing them according to their merits or acording to their reputation, because there is no two men in the community would give the same estimate, you realize that, as to their general reputation.

Q. I want to get his general reputation. You might think a man has a good character and somebody else wouldn't think so, but did this man have the same good reputation as the other men who were special officers that you named?

A. Do you mean the volunteers?

Q. Yes.

A. Why I wouldn't say it was particularly any better, his reputation. He might not have stood as high in the community as did Mr. Marx, for instance, might not have stood as high as Mr. Flournoy. Officer Magee had had some trouble, but the law was always on his
659 side. It was in his character as a fearless and dauntless officer that I called upon him on this occasion.

Q. What was Bob Carson's general reputation in Bogalusa for peace and quiet?

A. He too had had some trouble; his report was not so good.

Q. Was his reputation good or bad?

A. It wasn't so good.

Q. Now I understand you turned these warrants over to Wiley Magee?

A. I either turned them over or had them turned over.

Q. Had Wiley Magee had trouble with Williams before that time?

A. Not that I know of.

Q. Who was the mayor of Bogalusa at that time while you were serving as Commissioner of Public Safety in 1919?

A. W. H. Sullivan.

Q. That is the same Sullivan that is connected with the Great Southern Lumber Company, is he not?

A. Same one.

Q. General Manager?

A. Same one.

Q. Now you say this first shot that was fired at the scene of the killing came from the office?

A. Came from the office.

Q. In which direction was it shot?

A. It was shot out of the—as I gathered,
660 it was shot out of the door of the office, or out of the window—I couldn't say which direction it went. The only thing I know is, from its sound it came from an enclosure, and that is the only enclosure there from which it could come.

Q. The only reason why you give your idea or your answer, that that shot came from the office, was because of your judgment of sound?

A. Because of my judgment of sound.

Q. And that is the only reason why you say that?

A. That is the only reason I base my opinion on.

Q. That is your opinion?

A. (No answer).

Q. And how long after the first shot did the general shooting take place?

A. Took place immediately.

Q. Now I understand that you were stationing men at the gate as these other men went in?

A. As the first men went in, I stationed men at the gate to keep anyone out.

Q. Did you keep your eye constantly on Wiley Magee all the time he was going in?

A. Oh, no; couldn't.

Q. Unless you saw everything that Wiley Magee did from the time he left you until the time following the shooting, you couldn't say exactly what he did?

A. No, not everything; couldn't.

661 Q. You didn't see Lem Williams when he came to the door, you couldn't see him because you were not in position to see?

A. I couldn't see him because I was in line with the gate, and any one that was in line with the gate couldn't see what was in front of him.

Q. I understand you to say you were by the boat?

A. I walked up to the boat and was in line with the gate, looking into the window that faces the street, faces west.

Q. You were looking in the window?

A. I was looking in that direction.

Q. (Counsel produces map.) I want to show you this sketch. This is Columbia Road, that is the gate to Williams' yard, that is the two story building next to Williams on the right facing the road, this is the garage, that is his office and this is his residence. Now, where was the boat?

A. In here somewhere (witness indicating).

Mr. Dufour:

Let the jury see.

A. (Witness continuing). The boat was in here, between the office and the street.

By Mr. Dufour:

Q. About where; indicate to the jury.

A. Well, I don't recall just where it was, but I think that is a little bit close.

662 By Mr. Higgins:

Q. About how many feet from the office?

A. A little back in here further, as I recall it, about twenty-five or thirty feet from the office. I stopped here at this gate and put these guards, then came on in here, and when this conversation was going on, I was walking through here (witness indicating), and when the shooting started, I had gotten up to here (witness indicating), and the only thing I could see was this, (witness indicating), this window here.

Q. You were paying attention to this window?

A. Not particularly, no.

Q. I mean you were looking at it.

A. I looked in that direction; I was paying attention to everything, more or less, as in cases of that kind; also saw these men up here (witness indicating). I wasn't paying attention to any one thing during the whole time, and I was not looking through that window all the time.

Q. You were standing by the boat at the time the first shot was fired?

A. I came up along towards the boat somewhere in here (witness indicating).

Q. How far in front of you were Magee and LeBlanc?

A. They were about thirty feet from me as I recall.

663 Q. Now where did you see Mrs. Williams the first time?

A. She went out the gate as we came in, out the gate and went down the street.

Q. Are you sure that was before the shooting?

A. It was before the shooting.

Q. Now where was Magee and LeBlanc at the time you came in the yard?

A. They were up ahead of me, walking towards the office. They had got ahead of me.

Q. You didn't go into the garage or the office after the shooting?

A. No, I did not.

Q. Did you have a gun in your hand at that time when you went there?

A. I had a gun, yes, sir.

Q. Did Magee have a gun?

A. Wiley Macgee had a gun, yes.

Q. Did LeBlanc have a gun?

A. Jules LeBlanc had a gun.

Q. Did Mr. Levert have a gun?

A. I presume he did; we all were armed.

Q. Wilcox have a gun?

A. I can't say positively that every man had a gun, but judging by our men, I would say we were all armed.

Q. Mr. Beinn have a gun?

A. Beinn. I didn't see Beinn. He was late getting up there.

Q. Now what did you do after the first shot was fired?

A. After the first shot was fired—the thing
664 was all over in a few minutes, a few seconds.

Q. Did you fire any shots?

A. I did not.

Q. Did you see Wilcox fire any shot?

A. Wilcox; no.

Q. Did you see Mr. Levert fire a shot?

A. No, I did not.

Q. Did you see Mr. Bienn fire a shot?

A. He wasn't there; he got there late.

Q. Whom did you see shoot, if anybody shot?

A. I didn't notice anybody particularly shooting; during the excitement everybody was shooting. I didn't shoot because from where I was standing there was no one to shoot at, you might say.

Q. If you had seen some one to shoot at, you would have shot at him?

A. Naturally, I would have returned their fire, of course.

Q. Now what kind of a building was that, that office of Lem Williams?

A. A little frame building.

Q. Was it ceiled?

A. Inside you mean; I didn't go in.

Q. Did it have weatherboards on?

A. I think it was just an ordinary frame building.

Q. Have some glass windows in it?

A. The window on this side, the one I saw.

665 Q. Do you know whether that door was not a glass door?

A. I don't recall what kind of a door it was.

Q. Did you see them when they shot Gaines?

A. No, I didn't see Gaines shot. He went out to the garage and I didn't see him any more.

Q. Did you see Bouchillon when he was shot?

A. I did not .

Q. You don't know who shot any of these men, do you?

A. I do not.

Q. Now do you know if anybody was wounded of the special officers that came there?

A. Jules LeBlanc was shot through the arm.

Q. What kind of a bullet?

A. I didn't examine him.

Q. Shot in the arm?

A. That is my recollection, yes.

Q. No one else was hurt, though?

A. He was the only one.

Q. Was that shot fired during the general shooting or before?

A. I don't know whether it was the first or the second shot. I couldn't say when he was shot.

Q. You say you arrested James Williams after the shooting?

A. He was arrested, yes, sir.

Q. What was the charge made against him?

A. I don't remember what the charge was.

Q. Was he ever convicted on that charge?

666 A. I don't recall.

Q. Now, are you opposed to union labor?

A. Not at all. On the contrary. Union labor supported me in my race for the Commission Council last election.

Q. Well, would you name some of the union representatives that helped you?

A. I can name Mr. A. D. Harms.

Q. How do you spell his name?

A. H-a-r-m-s.

Q. What position does he hold with the union?

A. I don't know that he holds any position, but he is a union man, working for them on the N. O. G. N. Railroad.

Q. Was he in Bogalusa at the time of the shooting?

A. I think he was.

Q. What other union men?

A. I had the support of all the railroad men. Harms particularly went around with us and made speeches for

us, for our ticket. On our ticket there was Ed. Cassidy, Jim Sterns and myself. They were running in opposition to the Great Southern Lumber Company ticket. We had the support of practically all the union labor.

Q. Why do you say it was the Great Southern Lumber Company ticket?

A. That is what they called it there at Bogalusa at that time.

667 Q. Does the Great Southern Lumber Company deal in politics in Bogalusa?

A. Not that I know of to my own personal knowledge.

Q. Does the Great Southern Lumber Company use its influence to elect or defeat candidates for public office in Bogalusa?

A. People think they do. I can't say of my own personal knowledge that they do.

Q. As a matter of fact, you know they are in politics there, don't you know that?

A. I can't say except by hearsay. I have pretty good reason to think so.

Q. Well, who directs the political issues or the political ends of the officers of the Great Southern Lumber Company?

A. The Great Southern Lumber Company has no political issues in Bogalusa. I was just telling you we beat it.

Q. I understand, but you said it was the Great Southern Lumber Company ticket.

A. That is what it was called.

Q. Well, who was heading that ticket?

A. Mr. C. R. Black was reputed to be one of their candidates, and he was too. Dr. J. H. Slaughter was reputed to be one of their candidates. He was elected. Dr. Brumfield was supposed to have had their support.

He got beat. There was no opposition on the mayor. He was elected without opposition.

Q. Who was?

A. Mayor Sullivan.

668 Q. He is the General Manager of the Great Southern Lumber Company?

A. Yes. They had another candidate, whose name I don't recall, reputed to be their candidate. He was beat too. We elected three and lost one man.

Q. Do you know who appointed Ed. Cassidy to act as mayor in the absence of Mr. Sullivan?

A. He wasn't appointed. I think the charter provides—

Q. What position did he hold in the city?

A. He is the ranking commissioner, he is the oldest commission councillor. Whenever a commissoners has been in office longer than the rest, he outranks the rest.

Q. You say you didn't see Dr. Brister at the scene of the shooting?

A. I don't recall seeing him at the shooting; I saw him after it was over.

Q. Did you see Major Guerre there?

A. I didn't see Major Guerre till after it was over.

Q. Did Major Guerre have anything in his hand at the time you saw him?

A. I don't think so.

Q. Dr. Brister have anything in his hand?

A. I don't think so.

Q. Now can you recall exactly the words that you heard at the time just previous to the first

669 shot; after everybody was in the yard, what did you hear begin?

A. The first thing I heard was somebody said he came to arrest Sol Dacus. I don't know who said that, because I wasn't looking in that direction. I won't make oath,

and heard him say "Put that gun down." I couldn't say who said it.

Q. Did you see anybody have a gun at that time?

A. Have a gun?

Q. Yes. I mean that was not a special officer.

A. I saw Tom Gaines have a gun as he went into the garage.

Q. Well, did he stop?

A. I wasn't watching him every minute. I got a glimpse of him as he went in.

Q. You say you saw him with a gun in his hand?

A. Yes, sir.

Q. As he left the office?

A. No; as he went into the garage.

Q. As he went into the garage. Now did he stop when you asked him to put down the gun?

A. I couldn't say; I wasn't watching them every minute. I posted these guards and then walked on towards the office.

Q. You don't know what happened then, do you?

A. Except what I have said; that is all I know happened.

Q. I mean after these words were spoken about putting down the gun.

A. The shot was fired from the office; that
670 is all I know.

Q. And you don't know that except by the sound?

A. (No answer).

Re-Direct Examination.

By Mr. Dufour:

Q. Who made the arrangements for the use of the Great Southern Lumber Company's whistle by the Police Department?

A. Chief Magee and myself made the arrangement.

Q. With whom did you and the chief make this arrangement?

A. With Mr. Cassidy, the Assistant General Manager.

Q. How long before the occurrence was that?

A. Well, I don't recall; probably a month or two.

Q. That was before the first whistle was blown that you spoke of?

A. Before the first whistle was blown.

Q. What was the designation for fire, what whistle designated fire, what was the fre alarm?

A. They always blow the siren first, then they give the fire whistle, the stationary whistle, to indicate the location of the fire.

Q. Now what whistle blew on these occasions?

A. Just the stationary whistle.

Q. Not the siren whistle?

A. No.

Re-Cross Examination.

671 By Mr. Higgins:

Q. These volunteer special officers that were commissioned, they had no previous experience as police officers, had they?

A. No; most of them hada't. They were simply citizens of the town who had volunteered their services in a time of stress, doing their duty as they saw it.

MAJOR LOUIS GUERRE, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. What is your name?

A. Louis Guerre.
Q. Where do you reside?
A. In New Orleans.
Q. How old are you?
A. Forty-one.
Q. Where did you get your title as Major?
A. I was major of infantry during the war.
Q. Did you serve in France?
A. I did.
Q. With what regiment?
A. With the 39th, then Headquarters; after transferred to the 41st Division, First Replacement Depot A. E. F.
Q. How long were you there?
A. Eleven months.
Q. Have you held any other military titles beyond those you spoke of?
A. Colonel of Infantry, Officers Reserve Corps, assigned command 156th Infantry, National
672 Guard. I am actively in command of the 156th Infantry, Louisiana National Guard.
Q. Do you occupy that last named position now?
A. I do.
Q. Where were you living in November, 1919?
A. Bogalusa.
Q. How long had you lived there?
A. Some nine or ten years.
Q. When did you leave Bogalusa?
A. First of April, 1922.
Q. What position did you occupy in Bogalusa?
A. Plant superintendent Great Southern Lumber Company.
Q. What were your duties?
A. Had charge of the operation of the saw mill plant, the entire plant, consisting of the yards, planing mill and the forestry department.

Q. Who were your superiors?

A. Mr. J. H. Cassidy and Mr. W. H. Sullivan.

Q. Were you a member of the special police force that existed in Bogalusa in November, 1919?

A. I was not.

Q. Had you ever been a member of that force?

A. I had not.

Q. Did you cause to be blown on November 22nd, 1919, the whistle of the Great Southern Lumber Company?

A. The fire whistle, yes.

673 Q. At whose request was that blown?

A. Chief of police.

Q. How was that request communicated to you?

A. Personally by Jules LeBlanc.

Q. Who was Jules LeBlanc?

A. One of the special officers.

Q. What was he at that time; what was his business?

A. He was in the automobile business.

Q. Did he work for the Great Southern Lumber Company?

A. He did not.

Q. What whistle was that that was blown?

A. That was the three-toned stationary whistle. It is used for blowing the location of fire. It is operated by a two-way valve, that is, one cord to pull down and one cord to stop.

Q. Is that a siren whistle?

A. No, sir, it is a three-tone whistle, like one of these big steamboat whistles, six inches tall, having three large bells, one independent of the other.

Q. Which whistle was blown on this occasion?

A. The fire location whistle.

Q. Not the siren whistle?

A. No, sir.

Q. Was that Whistle ever blown before for police purposes?

A. Yes, sir.

Q. When?

A. Some time during the month of October.

674 Q. Who requested it to be blown then?

A. The chief of police.

Q. Did you blow it on his request?

A. Yes, sir.

Q. What is that whistle which was blown on November 22nd, 1919, used for?

A. Fire purposes only.

Q. Is it used for any other purpose?

A. No, sir.

Q. Where were you when you got the request to have that whistle blown?

A. I was just about sitting down to eat lunch at home.

Q. What time of day?

A. So far as I recall, about 12.15 or 12.20.

Q. What did you do?

A. I immediately left in my car and went to the powerhouse and had the whistle blown by the engineer who was on duty.

Q. Were you a member of the police force?

A. I was not.

Q. Did you answer that summons?

A. I did not.

Q. After the whistle was blown, where did you go?

A. To my office.

Q. And where did you go after that?

A. I stayed in there some ten or fifteen minutes, and then I got in my car with three or four other men who were around the office, and drove out Fourth

675 Street to Columbia Road, turned to the right—

Q. Where were you going?

A. Going to Sol Dacus' house.

Q. What statement did LeBlanc make to you when he told you the Chief wanted the whistle blown?

Objection: Mr. Higgins:
I object to that as hearsay.

Mr. Dufour:
I want to show that the witness was told they had located Sol Dacus, and when he went out, he went to Dacus' house, that is how far he thought he was going.

The Court:
That is not hearsay evidence, as to how his information was derived. If that is the objection, I overrule it.

Q. What information did LeBlanc give you?

The Court:
Don't go into details.

A. That he wanted to assemble the special officers for the purpose of going down to effect the arrest.
Q. Of whom?
A. Sol Dacus.
Q. Did he tell you where he was?
A. No, sir.
Q. When you left the mill, where did you go, where did you start?
A. Straight down Fourth Street to Columbia Road, then turned to the right and went to the next corner, which was commonly known as Ben's Point.
676 Q. Was that towards or away from Lem Williams' place?
A. That was away from Lem Williams place.

Q. Where were you heading for?

A. Turn down the next street to go down to Sol Dacus' house.

Q. Is that where you thought Dacus was?

A. Yes, sir.

Q. Did you know he was supposed to be at Williams' place?

A. No, sir.

Q. Did you know that the special police were going to Williams' place?

A. No, sir.

Q. Did you go on to Williams' place?

A. We turned. One of the boys in the car remarked the mob was going the other way, so when I arrived at that corner I turned the car around and headed north on the Columbia Road.

Q. Now when you got there—where did you go?

A. I headed north on Columbia Road and from that distance could see four or five cars coming south on the right hand side of the road and stop about in front of Williams' place. I could see that from where I was. When I got by the steam laundry, I headed in to those cars and stopped and got out and locked my car and came around the read end of it, and it was about in the middle of the street, when several shots were fired.

Q. Did you take part in that shooting?

677 A. I did not.

Q. Did you have a gun?

A. I did not.

Q. What were you there for?

A. Curiosity more than anything else.

Q. Did you participate in the shooting in any way?

A. I did not.

Q. Where did you go—how long did you stay there?

A. As I say, I was in the middle of the street when all this firing started. When there was a lull, I walked

out to the gate and stayed there for possibly a few seconds, may be a minute, then I stepped inside of the gate. About that time Jim Williams was coming out from behind the fence with his hands up (witness illustrating), and a little while after the Chief of Police came along with O'Rourke.

Q. Was O'Rourke wounded?

A. Yes, sir; blood was flowing from his shoulder, as well as I remember. The Chief says, "Major, have you got your car?" I said "Yes." He said, "Will you take this man to the hospital?" I said "I will. Have you got some one to go with me," and he called some one, and they put O'Rourke in the back of my car and this fellow, whoever he was, got alongside of me, he and Faust got in front with me and we took O'Rourke to the
678 hospital.

Q. Where did you go after that?

A. I went back to Columbia Road, Williams' Place.

Q. How long did you stay there?

A. Possibly some ten or fifteen minutes.

Q. Where did you go after that?

A. Drove home.

Q. Did you go to the company's office that afternoon?

A. I did not.

Q. Were you standing on the sidewalk in front of the company's office that afternoon?

A. I was not.

Q. Did you have any gun standing on the sidewalk that afternoon?

A. I did not.

Q. Did you have a gun in your hand at any time that day?

A. No, sir.

Q. When you arrived there, did you see Mrs. Williams?

A. I saw several ladies,—I didn't know Mrs. Williams from any other woman—coming out of that gate.

Q. Where were they?

A. They were coming out of the front gate, they were just, as far as I can remember, a little to the north of that gate.

Q. Were there any women in the yard when the shooting was going on?

679 A. I couldn't say. I didn't get there until after.

Q. Did you go into the office?

A. No, sir.

Q. Do you know Wiley Magee?

A. I do.

Q. Was he working on the Great Southern Lumber Company at that time?

A. He was not; not on the plant.

Q. What was, so far as you know, what was his vocation, his occupation?

A. Policeman.

Q. Do you know Bob Carson?

A. I do.

Q. Was he working for the Great Southern Lumber Company at that time?

A. Not on the plant.

Q. What was his business?

A. A merchant of some kind.

Q. What is his general reputation, or what was the general reputation in the city of Bogalusa at that time of Mr. Levert?

A. Very good.

Q. What was his business?

A. One of the owners of the laundry.

Q. What was the general reputation of Mr. Bienn?

A. Very good.

Q. What was his business?
A. Furniture dealer.
Q. What was the general reputation of Mr. Wilcox?
A. Very good.
680 Q. What was his business?
A. General merchant, I believe.

Cross Examination.

By Mr. Higgins:

Q. Major, you say you were in the infantry in the army?
A. Yes, sir.
Q. Have you had any experience in the handling of guns?
A. What kind of guns?
Q. Any kind?
A. Yes.
Q. Pistols, rifles?
A. Pistols, rifles, machine guns.
Q. Shot guns too?
A. I have not used a shot gun in twenty years.
Q. Now you say you were employed by the Great Southern Lumber Company?
A. As plant superintendent.
Q. Any other departments besides the department in which you worked at that time that was not under your supervision?
A. In the manufacturing end of it?
Q. Anything connected with the company?
A. I had entire charge of the plant operation, which is manufacturing lumber. There are several other departments besides that.

Q. Well, now, do you know of your own knowledge whether or not Wiley Magee was not in the em-
681 ployment of the Company on November 22nd, 1919?

A. I said he was not employed in the plant.

Q. You mean not in anything you had the supervision of?

A. Yes, sir.

Q. He might have been employed under some other arrangement that you don't know anything about?

A. I don't know anything about.

Q. That is possible?

A. May be.

Q. Was Jules LeBlanc in the employ of the company at that time?

A. No, sir.

Q. Was his brother Paul?

A. Yes.

Q. In what capacity?

A. Foreman of the clean up gang and Fire Prevention—Fire Chief, he was commonly called.

Q. Why did you go to the power house?

A. To have the signal blown, the riot call, as they call it.

Q. You therefore knew what the signal was?

A. Yes. Three times two long blasts on the whistle.

Q. You say you went to Sol Dacus' place?

A. I headed in that direction.

Q. What was your idea in going there?

A. Because they were going to arrest Sol Dacus and I was going to look on.

Q. Is that all you intended to do?

A. Certainly.

Q. You deny you had a gun that day?

682 A. Absolutely.

Q. Why was it an object of any special interest to you to see Sol Dacus, the colored man, arrested?

A. Just because he had been the cause of a good deal of disturbance in Bogalusa.

Q. You mean as far as the company was concerned?

A. As far as labor was concerned.

Q. Labor in the mill?

A. He had intimidated our negro labor.

Q. In the mill?

A. Yes.

Q. And you, as manager of the plant, were interested in seeing him arrested?

A. I was going for curiosity, just like anybody else would.

Q. Well, do you usually do that?

A. In an unusual occurrence of that kind, and so would you or anybody else.

Q. That is a supposition on your part. You say one of the men in your automobile said "The mob is going the other way?"

A. Yes, sir.

Q. Now who was he referring to when he said the "mob"?

A. He didn't say "the mob", he said "the crowd."

Q. You said "mob", when you spoke about it before.

A. I beg your pardon.

Q. I will have the stenographer read the answer, because I wrote it down just as you said it.

683 Mr. Dufour:

We admit he said "mob."

A. I meant the crowd, the crowd on the sidewalk.

By Mr. Dufour:

Q. The crowd on the sidewalk?

A. Yes, on Columbia Street, going in the opposite direction.

Q. Were they special police?

A. No; they were civilians.

By Mr. Higgins:

Q. They were spectators, were they?

A. They were civilians.

Q. Were they going in the direction of Willams?

A: They were, north side of Columbia Road.

Q. I mean, is that in the direction of Williams' place?

A. Yes, sir.

Q. Did you tell anybody that signal would be blown, besides the special officers of the city of Bogalusa?

A. All those in the employment of the company, the engine room department, knew it, and the engineer in charge.

Q. Did the fire department know it, under Chief Prim, I believe his name is—Chief Pittman?

A. I can't say.

Q. As a matter of fact, you did get to the scene of the shooting before any shooting took place?

A. No, sir.

Q. I understood you to say you were in the middle of the road at the time of the first shot?

A. I was in the middle of the street when
684 all that shooting happened. It all happened in the course of a few seconds, ten or fifteen seconds, maybe, thirty seconds.

Q. What made you go to the Williams' place?

A. I told you, we turned around because we saw the people going there.

Q. Do you usually follow crowds?

A. Haven't you followed the crowd yourself when they were arresting someone?

Q. I am asking you?

A. No, I don't usually do it, but I did it on that occasion.

Q. Why did you do it on that occasion; had you any reason?

A. I told you; to see Sol Dacus arrested, curiosity.

Q. Well, did you think that Sol Dacus was at Williams' place?

A. I didn't know.

Q. Now, as a matter of fact, you went to the gate after the shooting took place, didn't you?

A. Which gate?

Q. The gate of Williams' property?

A. Yes, sir.

Q. Did you go in?

A. Yes.

Q. Did they permit you to go in?

A. No one said anything.

Q. Did you see an officer stationed there to keep anybody from going in?

A. There were several of them.

Q. And they permitted you to go in?

685 A. Didn't any of them stop me.

Q. You deny that you had a gun at that time?

A. Absolutely.

Q. Did O'Rourke die at the hospital where you brought him?

A. I don't know.

Q. You don't know?

A. No, sir; not of my own personal knowledge.

Q. Wasn't that the company's hospital?

A. It was operated by the company, yes.

Q. You say after you took O'Rourke to the hospital, you came back to Williams' place again?

A. Yes, sir.

Q. How long did you stay there then?

A. Possibly some ten or fifteen minutes.

Q. Dr. Brister with you when you took O'Rourke to the hospital?

A. No, sir.

Q. Did you recognize any of these parties that were shooting?

A. Who?

A. [Q.] At Williams' place?

A. I know some of them that were there.

Q. Can you name them?

A. Special officers— I remember seeing Mr. Lindsley and the three gentlemen there— at least two of them— Mr. Levert and Mr. Wilcox. I remember seeing Jules LeBlanc coming out of the yard afterwards when they sent him to the hospital. I knew practically everybody in Bogalusa.

686 Q. Did you see Dr. Brister there?

A. No, sir.

Q. Was he at the hospital when you got there?

A. I don't recall. I think he was. Dr. Laffety was there when we went in.

Q. Did you see Dr. Brumfield at Williams' place that day?

A. I saw him on the sidewalk afterwards.

Q. Do you know whether or not he had a gun in his hand at that time?

A. I can't say.

Q. You say you saw some women coming out of the gate?

A. I said they were out and off of the gate.

Q. You don't remember whether one of them was Mrs. Williams or not?

A. I said I didn't know Mrs. Williams at that time. There were two or three ladies together.

Q. Now that was after the shooting; is that right?

A. As I drove up, as I go out of the car and was coming round the rear end of my car, in the middle of the street, all this happened and when the shooting stopped for a minute as though to get loaded, I happened to glance round and these ladies were going behind that two story building, in front of that two story building, on the street.

Q. Were they running or standing still?

A. No; as far as I remember, they were stationary.

687 Q. You were under the direction of Mr. Wullivan, who is the general manager of the plant; is that right?

A. He is general manager of the company.

Q. All right; of the Company. And he was also the mayor of the town at that time?

A. Yes, sir.

Q. Major, were you interested in the arrest of Williams?

A. No, sir.

Q. And the only reason you have for going to Williams' place at the time you found out that the crowd was not going to Dacus' place was just because you saw this crowd?

A. I didn't care anything about Williams or his place. The information came to me they were going to arrest Dacus, and I naturally supposed they would go to his home, which I knew was in the general direction of Jew Town.

Q. Who was it sent LeBlanc to you?

A. The Chief of Police.

Q. Mr. Magee?

A. Yes, sir.

Q. Now one of the Magees testified that he had been told, and it was generally reported to him, that Dacus was at Williams' place?

A. Yes, sir.

Q. Did LeBlanc tell you that?

A. No, sir.

Q. Are you sure about that?

A. Sure, absolutely. Told me they were going to arrest Sol Dacus. I had no interest in knowing where he was or anything else. He asked that the whistle be blown, which I did.

Q. You were not at that time an officer of
688 of the City of Bogalusa?

A. I was not, no, sir.

Q. The arrest of Sol Dacus and the arrest of Lem Williams and O'Rourke and Bouchillon and Gaines didn't interest you at all?

A. No.

Re-Direct Examination:

By Mr. Dufour:

Q. Did you know Sol Dacus?

A. I didn't know him until his trial here a month or so ago.

Q. Have you seen him around this court room in the last week?

A. Yes.

Q. How often?

A. I think practically every day.

Q. Who was in that car with you when you left the mill?

A. Jules LeBlanc, Captain Faust, H. Y. Bowman and one other man, I can't recall.

Q. Which LeBlanc?

A. Paul LeBlanc.

Q. You first said Jules.

A. I was mistaken. Paul LeBlanc, yes, sir, Paul.

Q. Jules LeBlanc was the one that came to you with the message?

A. Yes, sir.

689 Q. Did he go back with you?

A. I don't know. I left him at my house and went to my garage to get my car and drove to the powerhouse.

Q. Was George Townsend with you?

A. No, sir.

Q. Was Frank Royal with you?

A. No, sir.

By Mr. Higgins:

Q. Did you see any other colored men sitting around in the court room since you have ben here?

A. Yes, sir. One or two back there now.

By Mr. Dufour:

Q. But there is no question of Sol Dacus; you know Sol Dacus?

A. I know Sol Dacus, yes, sir.

At this point the further hearing of the case was continued to the following day, Tuesday April 28th, 1925, at 11:00 o'clock A. M.

690 Tuesday, April 28, 1925.

All parties interested being present, the hearing of the case was this day resumed.

WILEY C. MAGEE, sworn and examined as a witness for the Defendants, testified as follows:

Direct Examination:

By Mr. Dufour:

Q. What is your name?

A. Wiley C. Magee.

Q. How old are you?

A. Fifty-three.

Q. Where do you reside?

A. Bogalusa.

Q. How long have you resided there?

A. Well, I have lived in Washington Parish all my life.

Q. Were you residing in Bogalusa on November 22nd, 1919?

A. I was.

Q. What was your occupation at that time?

A. Special policeman.

Q. For the city of Bogalusa?

A. For the city of Bogalusa.

Q. By whom were you paid?

A. By the city.

Q. What was your beat?

A. Columbia Street.

Q. What were your hours?

A. Why we had been working from 6:00 in the afternoon to 6:00 in the morning.

Q. You were on the night shift?

691 A. Night shift.

Q. Were you present in Bogalusa on November 22nd, 1919, when the whistle on the mill of the Great Southern Lumber Company blew about 12:30 or some time thereabouts?

A. I was at home.

Q. Where is your home?
A. I lived on Avenue E.
Q. Had you worked as patrolman the night before?
A. I had.
Q. What time did you knock off duty?
A. 6:00 o'clock in the morning.
Q. When you heard that whistle blow on that occasion, where did you go?
A. I went to the City Hall.
Q. Why did you go to the City Hall?
A. By instructions from the Chief of Police to report there whenever we heard that whistle.
Q. Who was the Chief of Police?
A. T. A. Magee.
Q. Well, when you got to the City Hall, whom did you find there?
A. Well, I found Chief Magee there, Mr. Lindsley and several special policemen.
Q. Talk louder, please.
A. T. A. Magee, and Mr. Lindsley came up and gave me a warrant, two warrants. One warrant was for Sol Dacus and the other warrant was for— a joint warrant — for Bouchillon and O'Rourke.
692 Q. What did they give you those warrants for?
A. Gave them to me to serve.
Q. Who went with you to serve those warrants?
A. Mr. Lindsley went with me—

Mr. Higgins:
Talk a little louder. We can hardly hear you.

A. Mr. Lindsley, Mr. Jules LeBlanc, and several other special policemen, I don't remember their names, but there were several, went with me.

Q. Well, how many, about?
A. I suppose there was perhaps fifteen.

By Mr. Johnson:
Q. How many men did you say accompanied you, Mr. Magee?
A. Why, I can't just positively say how many there were, but there was fifteen any way or perhaps more.
Q. Did your chief and Mr. Lindsley give you specific instructions as to what you were to do?
A. They did.
Q. What did they tell you?

Objection: Mr. Higgins:
I object on the ground of hearsay.

The Court:
I will let him testify he was given instructions as to where to go for the purpose of executing the warrants.

Q. What instructions were given you, Mr.
693 Magee, in regard to making those arrests?
A. Told me to go down to Mr. L. E. Williams' place, that it was understood that this nigger Sol Dacus has been brought there by O'Rourke and Bouchillon, who were armed with shot guns and defying the officers.
Q. And he instructed you to go and make the arrest?

Objection: Mr. Higgins:
If your Honor please, I move that the part of the answer about Bouchillon and O'Rourke being armed with shot gun and defying the officers be stricken out as irresponsive to the question, and further because the witness himself testified that this is based upon nothing but hearsay.

The Court:

I will order stricken out and ask the jury to disregard any statement as to the report that Bouchillon and others were armed and defying the officers.

Mr. Johnson:

I reserve a bill.

Q. What time of day was this?

A. Why, it was just after 12:00 o'clock, between 12:00 and 1:00 o'clock.

Q. How did you go from the City Hall to the Williams' place to make the arrests?

A. Went in a car.

Q. Do you recall how many cars the band of officers were in?

A. Three or four.

694 Q. What happened when you reached the place; what did you do?

A. When we drove up in front of the gate that led down to his office, we all got out and started in, and just after we started in the gate, we noticed several men were sitting on the steps and one or two standing outside and some others in the door. They all walked back inside the office. Well, when we got, I suppose, about four or five feet of the front door, Tom Gaines ran out of the office with a shot gun, and I told him to stop, and he stopped. I told him "Give me that gun." He said said "Come and get it." Well, about that time Lem Williams walked to the front door with a 45 automatic Colt in his hand up in shooting position, and he says, "What in the Hell do you want". I told him I came there to arrest Sol Dacus, I had a warrant for him. I said "Drop that gun, drop that gun, drop that gun. We don't want to have any trouble with you at all," and then

somebody fired from the inside of the office and wounded Jules LeBlanc in the arm, and from that, why there was shooting from both sides, started in just like that and happened that quick (witness snapping his fingers) I couldn't tell anything about it.

Q. Do you know how many shots were fired?

A. No, I couldn't tell a thing about it; it was so quick. all around, in the streets and in the
695 back.

Q. After the shooting, what did you do?

A. I went out, walked on out to the gate, in front, on the street, and Mr. Lindsley was standing there, and he said to watch, to guard, not let anybody go in unless it was some of Mr. Williams' immediate family, keep everybody else out of there.

Q. Now as you men entered the yard, you say you saw men standing around and in the door of the office building. Did you see anyone else as you entered the yard?

A. Yes, sir. Just as we started in at the gate, we met Mrs. Williams, Mrs. Lem Williams, and Ida Williams—I think that is the two that were coming out of the place—coming out on the street.

Q. After the shooting, did you go into the office building or the garage?

A. No; I didn't go in.

Q. Did you look into those buildings?

A. I looked in the door.

Q. Was that before or after you went to the gate?

A. That was before I went to the gate.

Q. What did you see in the office?

A. I saw two dead men, some guns on the floor, a couple of guns.

Q. I understood you to say you lived in Washington Parish your entire lifetime?

A. Yes, sir.

Q. Have you at any time held any official
696 position in that parish?

A. I was deputy sheriff there eight years, before the city of Bogalusa was incorporated.

Q. What dates, do you recall?

A. Well, that was 1906 to 1914, I suppose.

Q. Louder please, Mr. Magee.

A. 1906 to 1914, I think, was about the dates.

Q. As deputy sheriff, were you in charge of the policemen of the city of Bogalusa?

A. In charge of what?

Q. Of the policemen of the town before it was incorporated?

A. Yes, sir.

Q. Now, since the incorporation of the city of Bogalusa, have you held any position other than what you spoke of as being a special policeman?

A. I didn't quite get you.

Q. Since the city was chartered, have you held any official position in the city other than as special officer, about which you have testified?

A. No.

Q. How long were you employed by the city as special policeman?

A. I went to work for them about the first of October and worked until some time in May, I think, the following year.

Q. What year, October of what year?
697 A. 1919.

Q. And you ceased to work for them in 1920, March 1920?

A. 1920.

Q. How Mr. Magee, it has been testified here that you are a very bad man. State whether or not during your entire lifetime, both as an officer and as a private

citizen, you have ever been charged or tried in the courts for violation of the law of any kind?

A. I have not.

Q. It has been testified here, on this witness stand, that you beat up a man by the name of Lambright; what have you to say in regard to that statement?

A. Well, during the early days of Bogalusa, Lambright was an awful bad man, drunk, hard to get along with, hard to control. He was drunk one night and I tried to arrest him, and I did have to hit him to make him subdued.

Q. Does Lambright still live in the city of Bogalusa?

A. Still lives in Bogalusa, and one of the good friends I have got in the city.

Q. What was your occupation before you went to Bogalusa, when you were living in Franklinton?

A. I was working in the sheriff's office, and then I ran an hotel.

Q. Were you ever engaged in the mercantile business in Franklinton?

A. I was.

698 Q. Mr. Magee, during the year 1919, or 1920, were you at any time in the employ of the Great Southern Lumber Company?

A. I was not.

Q. Have you ever worked for the Great Southern Lumber Co.?

A. I have worked for them, but it has been about twelve years ago, the best that I can recollect.

Q. What were the relations between you and Mr. L. E. Williams?

A. In regard to friendliness?

Q. Between you?

A. We were perfectly friendly. I know I never had a bit of trouble with him any time as long as I can remember, and I have known him a good long time.

Q. What is your present occupation?

A. I am occupying a filling station up on Columbia Street.

Q. Will you state to the Jury what investment you have in that business?

A. About ten thousand dollars, between nine and ten thousand.

Cross Examination:

By Mr. Higgins:

Q. You say that you were on the night beat as a special officer of the city of Bogalusa?

A. I was.

Q. How long had you been on that beat?

A. Well, I worked on that beat all the time,
699 ever since I first went to work for them.

Q. And when was that?

A. About the first of October, 1919.

Q. Prior to October 1st, 1919, you were not in the employment of the city of Bogalusa?

A. No.

Q. What was your occupation at that time?

A. Well, I wasn't doing anything; there wasn't anything doing then.

Q. Now, you were home sleeping at the time you heard this whistle blow?

A. No, I hadn't gone to bed.

Q. You mean to say you had stopped up all that morning?

A. Yes; I was up all that morning.

Q. Were you waiting for the whistle to blow?

A. No, I wasn't waiting for the whistle to blow. I had some men planting the garden, and I was up that morning with them.

Q. Was the house you were living in owned by you at that time?

A. No; I was living in a Great Southern house then.

Q. Living in what?

A. I was living in— I was in my own home.

Q. All right. Now who was it owned by?

A. Owned by? Owned by me.

Q. You said just a moment ago it was
700 owned by the Great Southern, and now you say it is owned by you. Which is correct; did you own it or did the Great Southern Lumber Company?

A. Do you mean at that time, November, 1919?

Q. Around about October, 1919?

A. I was living in a house of the Great Southern Lumber Co.

Q. You were living in a house owned by the Great Southern Lumber Company?

A. Yes.

Q. Were you at that time in the employment of the Great Southern Lumber Company?

A. No.

Q. Will you kindly explain to us how you were living in a home or house belonging to the Great Southern Lumber Company when you were not in their employ?

A. There is lots of people lives in their houses that doesn't work for the company at all.

Q. Does the company rent its places out?

A. They do.

Q. Were you paying rent for that place?

A. What?

Q. To whom were you paying the rent?

A. I don't understand.

Q. To whom were you paying the rent?

A. It was paid to the Great Southern Lumber Company.

Q. I mean, who was the agent, whom did you deal with?

A. Mr. E. Webb, like everybody else; he is
701 the agent that handles that.

Q. Is he connected with the Great Southern Lumber Company?

A. He works for the Great Southern Lumber Company.

Q. In what capacity?

A. Looks after the houses.

Q. How much rent were you paying?

A. I was paying $28.00.

Q. How large a house is it?

A. It was an eight room house.

Objection: Mr. Talley:

If your Honor please, this is clearly going beyond cross-examination.

Q. What did you say?

A. It was an eight room house.

Q. When the whistle blew, why did you go to the City Hall?

A. I had instructions from the Chief to report to the City Hall when that whistle blew.

Q. So the blowing of the whistle was the signal for you to report to the City Hall?

A. It was.

Q. Did you examine these warrants to see whether or not they were in proper shape?

A. They were in proper shape.

Q. Did you have a warrant for Lem Williams?
A. No.
Q. Did you have a search warrant to search
702 Lem Williams' place?
A. No.
Q. Were you directed to go to Lem Williams' place?
A. I was.
Q. Now what offence was stated in the warrants that you had— first as to Dacus?
A. The one for Dacus was trying to incite a riot, and disturbing the peace.
Q. Are you sure about that?
A. Sure about it.

Call: Mr. Higgins:
We call for the production of the warrants.

Mr. Talley:
If the Court please, if the purpose is to impeach the testimony of the witness on something brought out by cross-examination, he can't do it.

Mr. Higgins:
I again ask for the production of those warrants.

Mr. Miller:
Don't get impatient; here they are (handing documents to counsel).

Q. I show you warrant for the arrest of Sol Dacus and ask you to read what the charge was on which he was being sought?

Objection: Mr. Talley:
I object for the reason that it is an attempt on the

part of counsel to impeach the witness on facts brought out on cross-examination.

703 The Court:
I overrule the objection.

Mr. Talley:
We reserve a bill.

A. You want me to read it?
Q. Read the charge, the part that contains the charge?
A. Sol Dacus, City of Bogalusa, Washington Parish, on the 21st—

A Juror:
We can't hear a word.

A. Washington Parish. On the 21st day of November, 1919, within the City of Bogalusa, Washington Parish, Louisiana, did unlawfully, maliciously and wilfully lead and appear as a dangerous and suspicious character. Then it goes on, just the regular form.
Q. Do you see any charge there of trying to incite a riot?
A. No.
Q. You supposed that; is that right?
A. It has been so long ago.

A Juror:
We can't hear over here.

Mr. Higgins:
I will ask him to speak louder.

A. (Witness continuing) It has been so long ago. A man naturally forgets these things, you can't remem-

ber just exactly the reading of every warrant you handle, in that length of time, you are apt to make an error. Of course it is practically the same thing though it is different in the language.

Q. Practically the same thing.

704 A. Why sure.

Q. Do you consider a charge of being a dangerous and suspicious character the equivalent of trying to incite a riot?

Objection: Mr. Dufour:

We object. They wouldn't let us prove yesterday what he was trying to.

The Court:

I don't think the question is a proper one.

Q. You had a warrant also, a joint warrant you said, for the arrest of Bouchillon and O'Rourke. Now what was the charge against them?

A. I don't remember what the charge was.

Q. You don't remember that?

A. No.

Q. As a matter of fact, don't you know it was for disturbing the peace?

A. Well, put it at that. I don't just remember. It has been so long ago.

Q. And behaving themselves in a manner calculated to alarm the neighborhood; you don't remember that?

A. No, I do not.

Q. Can you name any other special officers who were there besides Lindsley and Jules LeBlanc?

A. Why Mr. Willis was there, H. E. Willis, and there was several others, but I don't recall the names. I know there were several others.

Q. Do you remember whether or not these
705 special officers had guns?

A. They did have guns, some of them did, I know. Of course I don't know whether or not they all had guns.

Q. Did you have a gun?

A. I did.

Q. What kind of a gun?

A. I had a shot gun.

Q. Was it an automatic or a double barrelled gun?

A. It was an automatic.

Q. You had it loaded?

A. I wouldn't have a gun without having it loaded, of course.

Q. You men took autombiles to go there, I understand?

A. How is that?

Q. You took automobiles to go there?

A. Yes, sir we rode there in cars.

Q. When you got to Williams' place, you walked right into his yard; is that right?

A. Yes, sir; we walked right down from the street, right straight down this yard that led to his garage—there was a garage in the back.

Q. His property is fenced in?

A. No, didn't have any fence inside; just fenced on the outside.

Q. It is fenced in though?

A. Didn't have any between.

706 Q. All right. It had a fence on Columbia Road, didn't it?

A. Yes, and there was a house to the south side, and that was fenced.

Q. Did you know that was Lem Williams' property?

A. No.

Q. You knew that was his home though, didn't you?

A. I knew he lived there.

Q. You knew it wasn't public property, didn't you?

A. Yes, I knew it wasn't public property, of course.

Q. What were these men doing that were standing around and outside of the building when you came up?

A. Why they wasn't doing nothing, just talking among themselves.

Q. Did you see any guns at that time?

A. No.

Q. Did you see Dacus at that time?

A. No.

Q. Did you see Dacus at Lem Williams' place any time; before the shooting, after the shooting, or at the time of the shooting?

A. No.

Q. Do you know who shot Lem Williams?

A. I do not.

Q. You deny that you shot him?

Objection: Mr: Dufour:

We object. I think your Honor should instruct the witness as to his constitutional rights.

707 The Court:

The witness is not bound to answer any question that would tend to incriminate him.

The Witness:

I claim the privilege.

Q. Did you see anybody shoot Tom Gaines?

A. No, I did not.

Q. You know as a matter of fact though that he was shot?

A. He was shot.

Q. Did you see who shot O'Rourke?

A. No. You couldn't tell who was shooting because it was done so quick, just like that (witness snapping his fingers), you couldn't tell who shot, because they were shooting from both sides.

Q. Did you shoot?

Objection: Mr. Dufour:

We object.

The Court:

You don't need to answer if it tends—

The Witness:

I claim the privilege.

Q. Do you know who shot Bouchillon?

A. I do not.

Q. Do you know who fired the first shot?

A. The first shot came from inside that office. I don't know who fired it.

Q. Did you see that shot?

A. I heard it, I didn't see it.

Q. You heard it?

A. I did.

Q. And your idea of where the shot came
708 from is based solely on your ability of hearing?

A. Well, I wasn't over ten feet from where it was fired, just inside that office.

Q. You never saw anybody fire that shot?

A. No.

Q. And the only reason you think it was fired in the office is because you heard it coming from that direction, in your judgment?

A. I know it was fired out of the office.

Q. Why do you know it?

A. I was standing that close, why— the sound will tell you, when you are that close, just where to locate it, the sound where it was fired.

Q. What were Lindsley's instructions to you with reference to leaving other persons come into the Williams' place. After the shooting I mean.

A. Why he told me not to allow any one to go in there except the immediate family of Williams.

Q. Were the special officers in there at that time?

A. The special officers were in there already.

Q. How many of them did you say there were in there?

A. I don't know just how many were in there; some two, three, four —something like that.

Q. Two or three or something like that?

A. Wasn't many, just a few.

Q. What became of these other men that
709 you have testified were some fifteen or more, that left the City Hall?

A. They were out in the front, standing on the streets. Some of them I suppose had gone home— I don't know, I couldn't tell you.

Q. Do you know as a matter of fact, whether or not Williams' place was surrounded by special officers?

A. I do not.

Q. Was Mrs. Ida Williams and Mrs. Lem Williams excited at the time you saw them?

A. Coming out from the—

Q. From the yard?

A. When we first went in, they didn't seem to be excited.

Q. Did you men go in there with your guns in your hands?

A. Yes; couldn't put a shot gun in your pocket, you know.

Q. You had them in your hands and these women saw you when you came in?

A. I guess they did; we came with all our powers.

Q. Now, were they running or walking?

A. Walking.

Q. Do you know whether or not Mrs. Williams had her little boy Earl with her at that time?

A. Well, there wasn't any child with her when she came out.

Q. Did you see that child at any time?

A. No.

Q. I understood you to say that you didn't go into the garage and you didn't go into the office?

A. No, I did not.

710 Q. Now when the firing came from the office, what did you do— I don't mean about shooting— where did you go?

A. I didn't go anywhere.

Q. Didn't do what?

A. Didn't go anywhere.

Q. Where were you at the time these shots were fired from the office?

A. I was standing in front of the door, right in front of the door.

Q. How close were you to the door?

A. Why I don't know exectly, perhaps eight or ten feet I think; just exactly how far, I don't remember.

Q. Now here (counsel exhibiting map to witness) is Columbia Road; there is the big gate; there is the yard;

there is the office; there is the garage; and there is Lem Williams' residence, and the two story building next door to it. This is supposed to be the office door. Now how far were you from that office door?

A. I suppose some ten or fifteen feet.

Q. Right in front of the door?

A. Well, I was a little to the side, angling to the door.

Q. When the shot came from the office, what did you do about moving; did you move or not to any place?

A. No, I got back a bit from the door.

Q. Where did you go then?

711 A. I stayed there just about a second, didn't take but a second, it was all over in a couple of minutes, and when everything was over I went out to the street, went to look to see what happened there.

Q. You went out to the street after the shooting was over?

A. Yes, sir.

Q. How long did you stay out in the street before you came in?

A. Well, I don't know, I don't know that I came back any. Of course you can't remember everything that happened so long ago. I might have gone back, but the chances are I didn't go back; I don't remember whether I did or not.

Q. You say you were deputy sheriff from 1906 to 1914?

A. Yes.

Q. Did you leave the sheriff's office voluntarily?

A. The sheriff sent me over there.

Q. Sent you over where?

A. Over to Bogalusa, to take charge of that work over there.

Q. You were not a deputy sheriff any longer?

A. I was a deputy sheriff up at the sheriff's office.

Q. When did you give up your commission as deputy sheriff?

A. Why, when they changed administrations. I served under the administration for eight years.

Q. Then you would have gone out of office about 1914?

A. Of course, some time about that time.

Q. So you were not a deputy sheriff in
712 1919, were you?

A. 1919; I was a policeman.

Q. Now from 1914 until you were appointed as city policeman, you were not doing anything, I understand; is that right?

A. Well, not on any particular job; I worked in different places.

Q. You were living in Bogalusa at that time?

A. In Bogalusa.

Q. Were these special officers on duty all the time, or did they issue these commissions subsequently, take them back again, and so forth?

A. They were on duty all the time. I had a regular beat.

Q. How many special officers did you have that were paid by the city?

A. Why I don't know. There were six on my beat, I know, six with me.

Q. Now, before you were appointed in October, around October 1st, 1919, as special officer of the city of Bogalusa, how many men did they have on the force?

A. I don't know.

Q. You left the force in 1920, you say?

A. 1920.

Q. You state that you were friendly with Magee—I mean Williams—?

A. Yes, sir, we were friendly.

Q. There was no personal difficulty between
713 you and Williams?

A. As far as I was concerned, there was none.

Q. What did you say you had your money invested in, what kind of business?

A. Filling station, service station.

Q. When did you make that investment?

A. They are at work on it now, building it now.

Q. You say you have nine or ten thousand dollars invested in it?

A. That is what the building will cost.

Q. What was your salary as city policeman?

A. $112.00, I believe.

Q. What was your salary as deputy sheriff?

A. Hundred.

Q. Did you have any other source of income?

A. Yes, I had property at Franklinton before I went to Bogalusa.

Q. What kind of property?

A. I had an hotel and store building and a store.

Q. What revenue did it produce?

A. I don't know; that has been too long ago.

Q. Did you dispose of that property before you went to Bogalusa?

A. No; after I went there.

Q. How long ago?

A. About ten or twelve years ago.

Q. Were you very friendly with Williams?
714 A. Well, no; we were not, you might say, chummy, but we were friendly, just like the general run of people will be.

Q. Have you any receipts showing the payment of the rent?

A. Payment of what rent?

Q. To the Great Southern Lumber Company?

Q. [A.] They don't give any receipts, you are not supposed to get any.

Q. You are not supposed to get a receipt?

A. We don't get receipts, they never did give me any. Possibly they gave them to other people, but I never saw any. I suppose I could have got them if I had asked, but I didn't need one.

Q. Well, Mr. Magee, didn't the Great Southern Lumber Company rent these places, or didn't they have them, for the purpose of serving their employees?

A. That is the purpose of the Great Southern Lumber Company, to furnish houses to all their employees. Of course lots of times they have vacant houses that they rent to other people, but of course you have to vacate them when they want them for one of their employees. When their employees need their houses, the employees get the preference. That is their rule.

Re-Direct Examination:

715 By Mr. Johnson:

Q. Did you at any other time answer the call for the special police by the blowing of this whistle?

A. Yes.

Q. How long previous to this occasion?

A. I don't remember just exactly how long it was; a week or something like that.

Q. What was the occasion for the calling out of the special police on the previous occasion?

Mr. Higgins:

I would ask your Honor to instruct the witness not to mention names or bring out any specific facts.

The Court:

Just without mentioning any names, state what was the occasion of your answering the whistle at that time?

A. Why, having some trouble about the depot, I think, as well as I can remember.

Q. Were any parties put in jail?

A. Yes.

Q. Where did you respond to that call?

A. Where did I go?

Q. Yes.

A. I went to the City Hall.

Q. Was there any difficulty at that time resulting from your coming together?

A. No, none at all.

Q. Any violence to anybody, any shooting, any trouble of any character?

A. No, there was no shooting, there was no
716 trouble that I could see.

Q. Now, you have stated that you served as a deputy sheriff until T. J. Simmons was elected as sheriff and the administration changed. How long did T. J. Simmons serve as sheriff?

A. Four years.

Q. T. J. Simmons a brother of H. M. Simmons, or Norman Simmons?

A. Yes, sir.

Q. Did you know Norman Simmons at that time?

A. I did.

Re-Cross Examination.

By Mr. Higgins:

Q. Mr. Magee, this office building of Williams was made of lumber, I understand, was a lightly constructed place; is that right?

A. It was a plank building.

Q. Upright boards?

A. Yes.

Q. Not weatherboarded or ceiled either?

A. I don't remember whether it was ceiled or not; I don't think it was weatherboarded.

Q. It was weather boarded, you say?

A. I said, I don't know whether it was or not; I am not sure.

717 JULES LEBLANC, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Johnson:

Q. What is your name?

A. Jules LeBlanc.

Q. Where do you live?

A. Kenner.

Q. How long have you lived at Kenner?

A. About a little over two and a half years.

Q. What is your occupation at Kenner?

A. Automobile dealer.

Q. Where did you live in November, 1919?

A. Bogalusa.

Q. How long did you live in Bogalusa?

A. How long before 1919?

Q. Yes.

A. I think it was 1911 when I first went to Bogalusa, and I lived there, except during my service in the army, up until two and a half years ago. During that time I was in the army, off and on, about five years, with the national guard and with the regular army.

Q. You were with the National Guard?

A. Yes.

Q. Before the beginning of hostilities?

A. Yes; we organized a National Guard company in Bogalusa. I was the one that helped to organize this National Guard company. We were called, in 1913, to the border in connection with some Mexican trouble down there.

718 Q. Did you have overseas duty?

A. No, sir, I was on this side as instructor.

Q. What rank did you hold in the army?

A. I was a captain.

Q. You mean in the World War?

A. Yes, sir; I was captain instructor in the World War.

Q. Mr. LeBlanc, in November 1919, what position, if any, did you hold under the city government in Bogalusa?

A. Nothing; just a citizen of the town of Bogalusa. You say in 1919?

Q. November 1919.

A. November 1919; I was a special officer.

Q. What was your position at that time?

A. I was in the automobile business there.

Q. Did you have any place of business?

A. Yes, sir; I was in a business of my own; I was in partnership with another man.

Q. Mr. LeBlanc, you say you were a special policeman?

A. Yes.

Q. How long did you serve as a special policeman?

A. I expect about sixty or ninety days; I was sworn in as a special policeman special officer.

Q. Were you a regularly paid policeman?

A. No, sir; I was a citzen that volunteered that if they needed any help I vas there to assist the city government in anything they called on me for,

719 that is, anything hat was within the law.

Q. Was there any occasion at any time on which you were called on as special officer to do service for the city?

A. Yes, sir, two occasions.

Q. When was the firs occasion?

A. The first occasion vas when a bunch of—

Mr. Higgins:

Wait a minute. I want this witness also instructed not to mention names.

Mr. Miller:

We object to counsel atempting to control our witness in advance. If he sturts off to make an improper statement, we will stop hm.

Q. Mr. LeBlanc, without making any statement or calling any names, simply state the occasion you were called out to act as special police.

A. I was called out one time to protect a train that was bringing laborers to work for the Great Southern Lumber Company. The conditions that prevailed at that time were such it was not safe for a man that wanted to work to live in Bogalusa unless he belonged to the Union, the union they had formed there, and any man

that wanted to work—men that want to work, in fact, are the only men that live in Bogalusa, because every man that lives in Bogalusa has got to be a working man, and all our business and everything depends on these men going to work and trying to keep things
720 rolling in the town of Bogalusa, and we did nothing else but what every citizen would do to help protect law and order, and we went out to protect these innocent men that were coming in to go to work.

Q. Were there any other occasions on which the special police was called out by the blowing of the whistle?

A. There was another occasion, on the 22nd of November, I think, some time after 12.00 o'clock, the whistle was sounded to assemble the special officers.

Q. Do you know who ordered the whistle blown?

A. Yes, sir.

Q. Who?

A. The Chief of Police and the Commissioner of Public Safety.

Q. How did they secure the blowing of the whistle?

A. Well, the Commissoiner of Public Safety's place of business was right in front of me—he is a banker and he got a message by messenger or telephone message from the City Hall that they wanted him over there—

The Court:

Just tell what you know of your own knowledge.

The Witness:

That is all I am telling, Judge.

By Mr. Higgins:

Q. Were you present?

A. No, sir; he came by and told me he got a telephone message from the City Hall—

721 Objection: Mr. Higgins:
We object.

Mr. Johnson:
Don't say what he said.

A. He came by and asked me to go over to the City Hall with him, and I went over there, and when we got over there, we found the Chief of Police, and he had a warrant for the arrest of a colored man and two white men—

By Mr. Johnson:
Q. Do you know their names?
A. The nigger was Dacus, and the white men I really don't know, because I didn't know these men.
Q. All right. What then?
A. Then it was decided what we were going to do. The Chief told me, he said, "Go over and have the whistle blown to assemble the special officers," and I went over to the Great Southern Lumber Company office, where I expected to find the superintendent, and then I had to go to his house, because he was at home at dinner. I told him what the Chief had sent me about, to have this whistle sounded, and then I went back over to the City Hall.
Q. You stated it was decided what to do between the Chief and Mr. Lindsley and yourself? Is that right?
A. I meant this. They were the ones that sent for me and I was the one they sent over to the
722 superintendent's office to have this whistle blown.
Q. And you had the whistle blown?
A. Yes, sir.

Q. What time of day was it blown, do you know?

A. Some time after 12.00 o'clock, I think, about 12.20.

Q. What was done after the blowing of the whistle? You say you went back to the City Hall?

A. Yes.

Q. Whom did you find there?

A. I found a few of the policemen, after the whistle was blown and some of the special officers assembled over there.

Q. How many special officers would you say assembled?

A. About fifteen or twenty.

Q. Well, what was done?

A. Well, we were sent with the police to serve this warrant on these three men, and I went with the regular police to help to serve this warrant. We went down, I expect, fifteen or twenty of us went down to serve this warrant.

Q. You say you went with the regular police; who were the regular police that you went with?

A. Mr. Magee is one; I can remember him well, he was the closest to me, and the Commissioner of Public Safety also went with us.

Q. Do you recall any of the others that
723 went along?

A. Well no, I can't; there was just a number of us together.

Q. Well, where did you go?

A. We went down to Columbia Street, to Mr. Williams' office.

Q. Why did you go to Williams' office?

A. Because we had word that is where this man, this nigger, and two white men were. We wanted to look to see if he was there, to serve the warrants.

Q. What did you go there for, Mr. LeBlanc?

A. We wanted to serve the warrants on this nigger and these two men.

Q. Did you go there to do any shooting?

A. No, sir; we didn't.

Q. What did you have in the way of fire arms?

A. I had a pistol. Every one had a weapon, for the simple reason that just common sense would teach a man don't stand up in the open and start anything—I walked in, I had the pistol on my, never even drew it.

Q. Why didn't you draw it?

A. For the simple reason, I thought that was the easiest way to avoid trouble; if any one saw it, he would be liable to get excited and start something.

Q. So you never drew it?

A. Yes; I drew the pistol later.

Q. When?

A. After I was shot.

Q. You were shot?

A. Yes, I was shot.

724 Q. Where did the shot come from that struck you?

A. From my left.

Q. Well, from what place?

A. I couldn't expect it to come from any other place than the office, because it is the only place it could possibly come from.

Q. Where were you shot?

A. In the arm, right arm.

Q. After you were shot, what took place?

A. Well, while I was shot, there was a lot of shooting going on.

Q. What took place before any shot was fired?

A. Well, as we walked into this yard where Mr. Williams' office was—do you want me to state just exactly what occurred?

Q. Yes, just exactly what took place.

A. As we walked towards the office, into the yard, I saw a man standing outside of Mr. Williams' office on the side—I don't remember his name—I asked him would he tell Mr. Williams to come out, we would like to tell him what our motive was. I knew he was the president of the Union and we tried to do everything as peaceable and as gently as anybody could, and as we walked in, I didn't stop, and these words were passed, this man repeated the words back to me, he says, "If you want to see him, come in", and we walked on in, and as I approached the office and got to the door, Mr. Williams was standing in the door—I couldn't see him until he got to the door—with a pistol in his hand.

Q. Did you see Tom Gaines at this time?

A. I didn't know Tom Gaines.

Q. Did you see anybody—

A. Yes, I saw him that is, I saw a man but I didn't know it was Tom Gaines—I didn't know Tom Gaines—didn't know him from anyone.

Q. What was he doing?

A. Tom Gaines? He had run out of this office with a shot gun—that is, I afterwards found out he was Tom Gaines—but he was the man that ran out with a shot gun—I won't mention any more names, because I knew very few of them down there.

Q. All right. As we got up I didn't see him for the simple reason he was going out into this garage in behind us and I wanted to keep everybody in front of me if possible, and just about that time is when the shot was fired. I heard one shot but I couldn't tell if I was shot by the first bullet or the second, but in just a few minutes after the shots were fired—

Q. What was said, if anything, by either side?

A. Mr. Magee asked Mr. Williams to put
726 his gun down.

Q. Anything else said that you recall?

A. No, sir.

Q. What did you do after the shooting ceased, Mr. LeBlanc?

A. Well, I was pretty well worked up and they had to tell me I was shot; I was bleeding and I didn't even feel it, I didn't know I was shot because I was a little bit excited, and as soon as the shooting ceased and the police took charge of the situation, I was rushed over to the hospital.

By Mr. Talley:

Q. What were the general conditions in Bogalusa at this time, just immediately preceding the killing?

A. Pretty tough.

Q. What do you mean by that?

A. Well, a person had to be on his guard all the time all the way through there; they had excitement and all kinds of trouble, and there were a lot of remarks—I can't state the remarks, I don't know anything positive, but just from the remarks and different conditions and from observation, I could see it was pretty tough. I know this much—on one occasion—

Objection: Mr. Higgins:

Now, if your Honor please, he is going to say something—

Mr. Talley:

Let the witness alone till he finishes.

727 A. (Wtiness continuing): What I am going to say now is a positive fact. The lights were cut off—

Q. Don't mention names.

A. (Witness continuing): The lights were cut off for one night, the water supply was shut off, and we all depended on that water supply as well as the lights, because that is the only way we get water for our sewerage and drinking water, through the pipes laid down in the city.

Q. Do you know Mr. Williams?

A. Yes, I know Lem Williams.

Q. What was his reputation in that community for peace and quiet?

A. Mr. Williams had the character of being a sort of a bully.

Objection: Mr. Higgins:

If your Honor please, I move that that answer be stricken out as not responsive to the question.

The Court:

You were asked to state only what his general reputation was for peace and quiet. The other evidence is irrelevant and has to be stricken out.

Q. Mr. LeBlanc, do you know what his reputation was in the community for peace and quiet?

A. Well, it was pretty bad.

728 Cross Examination.

By Mr. Higgins:

Q. Was Wiley Magee with you all the time while you were at Williams' place?

A. Yes.

Q. How close to him were you at all times?

A. Not further than five feet away at any time.

Q. Did you enter the yard with Wiley Magee?

A. Yes; I was in the lead.

Q. How many men did you see standing at the door of Lem Williams' office at the time you went in?

A. As I approached the place, I seen one man standing on the steps; as I entered the yard or premises, Mr. Williams was the only man I saw at that particular time.

Q. You saw no more than—

A. And later I saw his brother Jim Williams.

Q. Where did you see him, in the office?

A. In the office.

Q. You didn't see him outside?

A. No, sir, but I saw him outside after it was all over.

Q. I mean at the time you came into the yard?

A. No, sir; he was inside, using a gun.

Q. The time you and Wiley Magee came into the yard, you only saw one man standing outside?

A. And later on, a few seconds or a few minutes afterwards, I saw Jim Williams in the office too.

Q. I said, when you came in the yard; I am
729 not talking about a few minutes later.

A. I didn't see Mr. Williams when I entered the yard. I couldn't see him till I got in front of the office; he was inside the office.

Q. He wasn't on the steps?

A. Williams was not on the steps. He was inside the office.

Q. How large a man are you, Mr. LeBlanc?

A. I weigh 225 pounds and am a fraction less than six feet.

Q. And how large a man is Chief Magee?

A. Chief Magee is just a little bit heavier than I am. I am just about as tall as him.

Q. How large a man is Mr. Lindsley?

A. Well, there is Mr. Lindsley right there (witness indicating).

Q. Will you kindly state what your idea is?

A. Mr. Lindsley is a man who would weigh 175 pounds probably.

Q. How big a man is Bob Carson?

A. Bob Carson is built sort of out of proportion. It is hard to tell how much his weight is.

Q. Is he large or small?

A. Pretty good sized man.

Q. And how large a man is Wiley Magee?

A. Wiley Magee is what I should call a medium sized man, about in the neighborhood of 150 or 160 pounds, less than six feet all.

Q. How long had you been in Bogalusa
730 prior to the trouble?

A. I first went to Bogalusa, I think it was, in 1911.

Q. What business were you in?

A. When I first went there, I worked for the Great Southern Lumber Company for about two years, and about six or seven years I was in the automobile business there for myself.

Q. In what capacity did you work for the Great Southern Lumber Company?

A. Just a common laborer, that is, I belonged to the bull gang and I was a pipe fitter.

Q. How long had you known Lem Williams?

A. Well, that is pretty hard to tell. I have known Mr. Williams through the wrestling bouts we used to have around in there at the Y. M. C. A. I knew him that way. He was a wrestler.

Q. How many exhibitions did he give, do you know?

A. I couldn't tell. I didn't go to many of them.

Q. You say they were held at the Y. M. C. A.?

A. I couldn't say positively whether they were held there or not. I know there were some wrestling bouts, but whether it was there or down on Columbia Road, I couldn't say exactly.

Q. Did you attend some of them?

A. No; I just heard of some of those wrestling bouts; I knew he was wrestling, because afterwards I heard different people speak of him as a wrestler,
731 wrestling with him.

Q. Now what branch of the army were you in; the infantry?

A. Yes, sir; infantry.

Q. You had some experience in using a gun?

A. Yes.

Q. Rifle?

A. Yes.

Q. Any other kind of gun?

A. Just rifle, pistol, rifle and machine gun.

Q. Pretty good shot yourself, are you not?

A. Pretty good, yes, sir.

Q. You served as an officer on the city police force without pay, you say?

A. Yes.

Q. As a citizen volunteer?

A. Yes.

Q. Your reason for being that is because you say the mill stopped work and conditions were bad?

A. No; I said this: that at that particular time they needed all of us. While the mill was running they didn't need us, but when the mill shut down, that is when they needed us.

Q. Didn't these union men have to work for a living too?

A. I expect they did.

Q. You know they did?

A. I imagine so, but Williams had a position of his own, I understood, all the way through, he had a garage.

Q. And he was the president of this Union?

732 A. Yes, sir.

Q. A minute ago, you spoke about business conditions being bad?

A. I said they would be bad, the way things started, if they would have kept on going, I would have had to leave town.

Q. You mean have to close business?

A. Absolutely, and leave town.

Q. Due to the—

A. Prevailing conditions.

Q. Industries weren't working?

A. No, sir, with the conditions of Bolshevism and anarchy that was going on in the town.

Q. What is your definition of Bolshevism?

A. Oh, a Bolshevist is a man that don't listen to any orders or law, won't listen to reason.

Q. What is an anarchist?

A. An anarchist is a man that don't believe in government at all, I imagine.

Q. At the time of this trouble, do you know whether or not union men were working for the Great Southern Lumber Company?

A. No doubt there were some men belonging to the union that worked for the Great Southern Lumber Company, but I can't answer your question.

Q. Don't you know that the mill was shut down at that time?

733 A. I don't know whether the mill was shut down or not. Some part of it was going, I am positive. I was not connected with the Great Southern Lumber Company at all so I don't know what happened

over there. I know this much, they needed men, so they must have had something to do in there, because it was pretty hard to get anybody to go to work there, that is, anybody that was brave enough to go to work there and then live in the town.

Q. You were in business for yourself at that time, were you not?

A. Yes, sir.

Q. You have any capital invested in your business?

A. Capital invested?

Q. Yes.

A. Had to; can't carry on business without cash.

Q. I mean it was your own money?

A. Part of it was; I was in business with another man.

Q. Who was this other man?

A. Mr. E. R. Cassidy.

Q. Was he the gentleman who was acting mayor of the city?

A. Yes, sir; he was.

Q. In Mr. Sullivan's place?

A. Yes.

Q. And he is a brother of Mr. Jules Cassidy?

A. No, sir.

Q. Jack Cassidy, I mean?

A. Yes.

Q. Who was employed by the Great Southern Lumber Company?

A. Yes.

734 Q. In what capacity?

A. Who was?

Q. Jack Cassidy.

A. Mr. Jack Cassidy was superintendent of the Great Southern Lumber Company, assistant general manager.

Q. You delivered the message to the mill to have the whistle blown; is that right?

A. To the superintendent of the mill.

Q. Who gave you that message?

A. The chief of police.

Q. Mr. Magee?

A. Yes, sir.

Q. Didn't get that message from Mr. Lindsley?

A. The two of them were there together.

Q. Did you have a warrant for the arrest of Lem Williams that day?

A. No, sir.

Q. Did you have a search warrant to search his premises?

A. No, sir, not that I know of.

Q. You say there were fifteen or twenty special officers?

A. Yes.

Q. Were all of them armed?

A. Yes, sir.

Q. What kind of guns?

A. I couldn't say that. They all had arms. A police officer would be a foolish man if he went to perform his duty without some weapon.

Q. The reason why he carries a weapon is, if he has to use it, he can use it?

735 A. That is what it is on him for, I imagine.

Q. Now did you see Lem Williams when he came to the door of the office?

A. Yes, sir, I did.

Q. Which door did he come to (Counsel exhibiting map to witness)? This is Columbia Road, that is the residence of Lem Williams, that is the garage--turn it round—I want the jury to see it—and this is that two story building next door.

A. We entered here (witness indicating), and there is only one door in the office, this side door here, and he was inside and he came to this door.

Q. How close was Wiley Magee to Williams at that time?

A. I imagine some four or five feet, not any further.

Q. How far were you from there?

A. I was in this position, right in here (witness indicating).

Q. How far were you from him?

A. About five feet.

Q. You could see Williams very plainly, could you?

A. I saw Williams, and I passed on to get in this way, to come in and get the gun, to get the gun away from him.

Q. Why did you want to get the gun?

A. Well, if you was an officer going to arrest a man, you would try to remove all things that might cause you some trouble, wouldn't you?

736 Q. Did you take the gun from him?

A. No, I didn't.

Q. Why?

A. For the simple reason he got away and held the gun.

Q. He ran?

A. Well, he didn't walk.

Q. Now Williams came to the door, you say, within four or five feet from Magee?

A. No, sir; Williams was in the office when Magee got there.

Q. I say, Williams came to the door of his office?

A. Yes.

Q. And was fully four or five feet from Wiley Magee?

A. Couldn't have been much more.

Q. Did Wiley Magee have a gun?
A. Yes.
Q. What kind of a gun?
A. I think it was a shot gun.
Q. What kind of a gun did you have?
A. I had a 45 pistol.
Q. You had no other gun?
A. No, sir, no other gun.
Q. Where was Williams at the time he was shot?
A. In the office.
Q. I mean, was he in that door?
A. His feet were back from the edge of the door.
Q. You could see him plainly?
737 A. I saw him when I first walked up there.
Q. Do you know who shot him?
A. No, sir, I do not.
Q. I understand that the only warrant you had for the arrest of anybody was Dacus, O'Rourke and Bouchillon?
A. Yes, sir.
Q. You didn't have a warrant for the arrest of Gaines, did you?
A. Well, I don't know. We had three warrants. We had one for the nigger and two white men. Now the two white men, their names I don't remember.
Q. Now the man that you saw go into the garage, you subsequently found out was Tom Gaines?
A. That is what I heard. I didn't know him, but in the course of talking, I heard that it was Gaines that went in the office—I mean in the garage—but I didn't know Gaines.
Q. You had no warrant for Gaines' arrest, had you?
A. Well, I don't know. We had three warrants. I don't remember the names of the people we went to arrest.

Q. You didn't even find that out, and you were a special officer?

A. I wasn't going to make the arrest. I was just there to assist the officer in making the arrest. We were told the nigger had gone down in this place, and any man that started anything there would be a
738 fool, and for that reason I didn't even draw my gun from its scabbard. I know something about creating a riot, I was in a couple of them while I was in the army, never amounted to anything, but I know this you just need the scratch of a match to start something.

Q. You say any man starting anything would be a fool?

A. Positive.

Q. Why did you make that statement?

A. For the simple reason, I just figured it was like walking into a machine gun nest more than anything else.

Q. If Williams had started anything, it would have been like walking into a machine gun nest?

A. That is what I imagine.

Q. The shot guns and rifles that these other special officers had were naturally carried in such a position that anybody could see them; is that correct?

A. Positive.

Q. Now, when the shooting started, where did you go?

A. Where did I go?

Q. Yes.

A. Well, I couldn't go far. I was right there in front of the building.

Q. Did you go to cover or anything?

A. No, I did not.

Q. Where did you go?

A. I didn't have sense enough to do anything but stay out in the middle of the yard.

739 Q. Was any other special officer wounded besides yourself?

A. No, sir.

Q. And where were you shot?

A. In the right arm.

Q. Which part of the arm?

A. The biceps.

Q. Now how many men, special officers, went into Williams' yard?

A. Well, I couldn't tell you exactly. About fifteen or twenty of us went down. All of them went in the yard, and I was the first man and I didn't look behind me and I looked just in front of me all the way—you always keep your eyes in front of you.

Q. Were you expecting trouble?

A. No, but I would rather be on the safe side and see what is coming in front of me and not have it run into me in the back.

Q. You knew you were well protected at the back, I suppose?

A. Yes, sir.

Q. Where were you at the time you sent the man in to tell Williams to come out?

A. We were approaching the office, just as we entered the front gate from the side walk.

Q. You were in the Williams yard at that time?

A. We were walking in, approaching the office. I said it in a loud tone of voice, didn't holler, but loud enough for him to hear it distinctly from forty

740 to fifty feet away.

Q. You were looking for Bouchillon and O'Rourke and Dacus, were you not?

A. No, sir. We were looking for the men we had the warrant for. The nigger was the only one I really knew—I didn't even know him, but if I had seen some darkey back there I would have said that was the nigger, but the white men I couldn't tell.

Q. You went to arrest somebody you didn't even know the names of and you didn't have enough information to identify them.

A. I went to assist the officer making this arrest, that is all I did, and we went down there in a body, just like I said, and we had gotten reports from up and down and everywhere else that whenever we went down there there might be trouble.

Q. Those were general remarks, were they not?

A. Well, they were general remarks, in fact, we knew other people had been in fights of late, and we went down there in sufficient number, thinking it would warn any one that if we went down to make an arrest, we went down with the law in our hands. That is the way we did this. We had the warrants for arrest, and we went in there like any other officers would do to make an arrest, and we went in as peacefully
741 as anybody could go, and that is what we received when we got close enough to the place.

Q. Well, if you didn't have a warrant for the arrest of Williams, why was it you were asking for him?

A. I didn't want—I wanted to let Mr. Williams know what our object was, for the simple reason, if anybody came to my place that the officers were after, I would think they had a right to come in after him.

Q. You wouldn't like them to come on your property with shot guns, would you?

A. If they were officers of the law, I wouldn't care how they came, they had the right to look, the right to go anywhere, and I asked to be permitted to look for

the simple reason, if he didn't want to start anything I would make them do anything. A person should not be afraid of a gun if it is to be used for the right purpose in—

Q. What is the right purpose to use a gun for?

A. An officer of the law would use it in extreme circumstances to protect his own life.

Q. Would an officer of the law, or would you as an officer of the law, shoot a man who was charged with a misdemeanor?

A. No, sir, I wouldn't; I wouldn't be protecting my own life.

Q. Now you say Williams allowed you to come in, didn't he?

A. Williams didn't. This man that was standing at the office door said Williams said, "If you
742 want to see me, come in," but I didn't hear Williams say those words.

Q. Did you see who fired the first shot?

A. It came from my left, but I couldn't say who actually fired the shot.

Q. Came from your left?

A. From out of the building.

Q. Did you see any flash of the gun?

A. No, sir; there was not many flashes, it was all smokeless powder.

Q. You judged the direction the bullet came from the sound or what?

A. Yes, and the direction it hit me.

Q. Which way were you facing at the time you were shot?

A. I was facing the office.

Q. Where were you shot?

A. Right here (witness indicating).

Q. How far were you from the office at that time?

A. Some ten or twelve feet, I imagine.

Q. What calibre gun was it?

A. We couldn't exactly determine. It was a high power steel jacketed bullet, whatever it was, either a pistol or a rifle.

Q. You don't know who shot you, do you?

A. No; I couldn't say who shot me.

Q. Now, Mr. LeBlanc, were you struck by
743 the first shot, do you know?

A. The way it seemed to me like, I was struck by the first shot. At the same time, like I just said, I didn't exactly know when I was shot, in other words, when the bullet hit me I flinched, but I didn't know anything about it—the man behind me said he knew I was shot by the way I flinched.

Q. As a matter of fact then, you don't know just when you were struck, and really can't tell whether it was the first bullet that was shot?

A. From the time we were in there and from the amount of blood from my arm and my hand, it must have been right along about the first shot, for the simple reason my clothes was saturated with blood, and it takes some time for blood to trickle down from your arm and on to your clothes.

Q. But you can't positively swear you were the victim of the first shot, can you?

A. I wouldn't swear to it, no.

Q. You said you were very excited, didn't you?

A. Yes, sir.

Q. Do you know who turned off the water or turned out the lights—of your own personal knowledge?

A. No, I don't.

Q. All you know is they were turned out?

A. Yes, sir.

744 Q. You don't know whether that was due to trouble in the mechanism of the electric plant or what it was?

A. No more than what I heard.

Q. During this period of from October when you went in as a special officer to some time around the killing was your business good or bad?

A. It was about the same as at all times.

Q. About the same as all times?

A. Yes.

Q. You say you didn't draw your gun, Mr. LeBlanc?

A. I later drew my gun, yes.

Q. Which arm were you shot in?

A. My right arm.

Q. You say you went through the gate at the time Wiley Magee went in?

A. I was in front of him.

Q. Did you see anybody in Williams yard besides those men that you saw standing on the steps?

A. The lady folks were coming out there as we walked in.

Q. Who were they?

A. They were his wife and his sister, I imagine; I think, I am not sure.

Q. Did you notice whether or not Lem Williams little boy was there?

A. No, sir, I did not.

Q. You don't remember that?

A. No, sir; I don't.

Re-Direct Examination.

By Mr. Johnson:

Q. Mr. LeBlanc, with reference to the statement that you were excited, do you mean that you were excited when you went in?

A. No, no.

Q. When were you first excited?

A. I wasn't excited until the shooting began.

Q. How long did the shooting last?

A. Well, just a few seconds, I imagine. It is pretty hard for anyone to keep time in a place like that.

Q. Now, Mr. LeBlanc, when there is shooting on both sides by a number of men, could anybody tell who shot anybody else?

Objection: Mr. Higgins:

I think that is the opinion of the witness.

Q. I will put it in another form. Could you tell who shot anybody else?

A. I didn't get your question.

Q. Where there is shooting by a number of men from each side, as you have testified in this case, can you tell who shot anybody else?

A. Well, the way this happened, I am positive no one from the rear shot me; it was somebody in front of me shot me.

Q. That is what I am asking you, if you
746 could tell who shot you or who of your side shot anybody else?

A. Positively I was shot in front, because the bullet entered the front and came out of the rear, and the marks are there to show.

Q. But you can't name the man who shot you, can you?

A. No, sir.

Q. Can you name any man among your associates who shot Lem Williams, or Bouchillon, or anybody else?

A. No, sir, I can't.

Q. Did you go inside after the shooting, in the office building or in the garage?

A. No, sir, I didn't go in.

Q. You were shot?

A. I was shot.

Q. Did you look inside?

A. No, sir, I didn't. You want me to state where I was?

Q. Yes?

A. I backed off when this shooting was going on, I backed off. That threw me away from the door of the office and I couldn't see inside of it at all, and when it ceased. That is when I was run off to the hospital from in the yard.

747 DR. T. M. BRISTER, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Johnson:

Q. You are a practising physician, Doctor?

A. Yes.

Q. Where do you practice?

A. Bogalusa.

Q. I believe you are on the staff of the Bogalusa Hospital?

A. Yes, sir.

Q. Doctor, what is the capacity of that hospital?

A. Ordinarily seventy beds, but at times we put in more when it is necessary.

Q. For what is it operated?

A. To take care of sick folks.

Q. Is it operated for any particular interest or for all interests?

A. Anybody and everybody that comes along, we take them in.

Q. Now, Doctor, do you know who operates the Bogalusa Hospital; is it operated by any one interest or industry, or is it operated by all industries in Bogalusa?

A. Operated by the Bogalusa Hospital, as far as I know.

Q. How many attending physicians have you in the service of the Bogalusa Hospital?

A. He have six, all general practitioners, and one specialist.

Q. How long have you been connected with the Bogalusa Hospital?

A. Since 1914.

Q. You were then in Bogalusa, were you on
748 November 22nd, 1919?

A. Yes, sir.

Q. Do you recall the day on which L. E. Williams and others were shot in Bogalusa at that time?

A. Yes, sir.

Q. Doctor, where were you between the hours of 12.00 and 1.00 on that day?

A. At the hospital.

Q. It has been testified here by one or more witnesses that you were at the scene of the shooting. State whether or not that is true.

A. It is not.

Q. When did you first learn that any trouble had taken place?

A. When they telephoned for Dr. Lafferty to go down there, and about the same time they brought Mr. LeBlanc into the hospital; it wasn't but just a few minutes difference.

Q. Did they bring anybody else into the hospital?

A. Yes, Mr. O'Rourke.

Q. Who dressed the wounds of Mr. LeBlanc and Mr. O'Rourke?

A. I did.

Q. Where did you find the wound on Mr. LeBlanc?

A. On the right arm.

Q. Could you state from the character of the wound what had caused it?

A. Well, it was a bullet, whether or a pistol
749 or a rifle, I couldn't say.

Q. From the character of the wound, could you tell what kind of a bullet?

A. Yes; I judge it was a steel bullet.

Q. Could you tell anything about the calibre of the bullet, Doctor?

A. Perhaps a 32 calibre.

Cross Examination.

By Mr. Higgins:

Q. Doctor, is the Great Southern Lumber Company interested in this hospital?

A. Perhaps; I don't know, sir, I am working for it. I don't know who is interested in it.

Q. You are on the staff, are you not?

A. Yes, sir.

Q. Do you know who owns the hospital?

A. I couldn't say.

Q. Who is on the Board of Directors?

A. I couldn't tell you that.

Q. Well, what position on the staff do you hold?

A. I am one of the assistant physicians.

Q. How many years have you been in there?

A. I have been there in the hospital about ten years.

Q. Ten years, and you don't know who owns the hospital?

750 A. The Bogalusa Hospital; that is all I know.

Q. Well, do the employees of the Great Southern Lumber Company—are they treated at that place?

A. Yes, sir.

Q. Any other hospital over in Bogalusa besides that?

A. No, sir.

Q. Did you say you treated O'Rourke?

A. Yes, sir.

Q. Did he get well, or what happened to him?

A. No, sir, he died.

Q. How long after he was shot?

A. I don't remember now how long.

Q. How did you determine this was a 32 calibre bullet that LeBlanc was shot with?

A. By the size of the wound on his arm.

Q. You couldn't say it was not a 22 bullet?

A. Well, it was rather large for that.

Q. Did you recover the bullet?

A. No, sir, it went through.

Q. Where did you say you were between the hours of 12.00 and 1.00 on November 22nd, 1919?

A. At the hospital.

Q. Bogalusa Hospital?

A. Yes, sir.

Q. You usually spend your time at the hospital; is that a fact?

A. I stayed there.

Q. You live there?

751 A. Yes, sir.

Q. When was the first time you saw O'Rourke?

A. When they brought him to the hospital.

Q. Who brought him?

A. I don't know, sir, I don't remember.

Q. You say you were not in the vicinity of Lem Williams' place on the day of the shooting?

A. Oh, later in the afternoon, yes, sir.

Q. What time?

A. Oh after they brought those fellows up there and I had treated them, fixed them up and put them to bed.

Q. Whom did they bring first?

A. They brought Mr. LeBlanc.

Q. How long after that did O'Rourke arrive?

A. Well, I hadn't finished dressing Mr. LeBlanc's arm, when they told me they had him in the next clinic; I heard him hollering, and I went in there.

Q. How long was he in the hospital before you discovered he was there?

A. Oh may be ten minutes, just a few minutes.

Q. Why did you go to Williams' place that afternoon?

A. Well, for the same reason a great many people went; just drove down there.

Q. Just drove down there?

A. Yes, sir.

Q. You say you can't tell us whether or not the Great Southern Lumber Company has any interest in the hospital at all?

752 A. Well, I suppose they have.

Q. You don't know who is on the Board of Directors?

A. No, I don't know.

Re-Direct Examination.

By Mr. Johnson:

Q. Doctor, you stated that the hospital takes care of the men employed by the Great Southern Lumber

Company. State whether or not there are any other companies there whose companies the hospital takes care of?

A. N. O. G. N. Railroad, the General Box Company, the Bogalusa Paper Company, the Barrett Hardwood Company, the Sulphuric Acid Company and the Paper Bag Company.

Q. What about the Creosote Company?

A. Yes, sir, them too.

Q. In fact, Doctor—

A. All the industries in Bogalusa are taken care of at the hospital.

By Mr. Higgins:

Q. Where is the hospital located?

A. Well, just how do you mean?

Q. What street?

A. It is located on Avenue D.

Q. How far is that from the Great Southern Lumber Company Plant?

753 A. About four blocks, I think, three or four blocks.

At this point a recess was taken to 2.00 p. m.

After recess.

H. E. WILLIS, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. What is your name?

A. H. E. Willis.

Q. How old are you?

A. Thirty-seven.

Q. Where do you reside?
A. Bogalusa.
Q. How long have you resided there?
A. About fifteen years.
Q. Do you occupy any official position in Bogalusa?
A. Yes, sir, I am city engineer.
Q. How long have you been city engineer?
A. About nine years.
Q. Were you city engineer in November 1919?
A. I was.
Q. Were you a special police officer of the City of Bogalusa in November, 1919?
A. I was.
Q. Sworn as such?
754 A. Yes, sir.
Q. What was the signal for the assembling of the special police at that time?
A. There was a siren blown.
Q. The whistle on the lumber mill?
A. Yes, sir.
Q. Was it the siren whistle or the fire whistle?
A. It was the fire whistle.
Q. Did you have occasion to respond to that signal on November 22nd, 1919?
A. I did.
Q. Where were you when the whistle blew?
A. Well, as near as I can remember, I was up on one of the front streets and from there I went to the City Hall.
Q. Whom did you find at the City Hall when you arrived there?
A. I found Mr. Jules LeBlanc, and there were several others there—Mr. Wilcox and—
Q. Were there any public officials there?
A. Chief Magee was there.

Q. Anybody else, any other official?

A. Not that I remember.

Q. Was Mr. Lindsley there, Commissioner Lindsley?

A. Yes; I believe he was there.

Q. Now after the police assembled at the City Hall, where did they go?

A. We went to Columbia Road.

Q. To what place?

A. Mr. Lem Williams' garage.

755 Q. What did you go there for?

A. We were given a warrant, or rather a warrant was given to Mr. Wiley Magee to arrest Sol Dacus.

Q. What did you go there for?

A. I was a special officer and I was asked to go.

Q. What happened on arriving there, tell us what happened.

A. Well, as we got there, we got out of the cars and started in the yard, and as we went through the gate, there was a couple of ladies came outside, Mrs. Lem Williams and some one else, I don't know who.

Q. You knew her?

A. Yes, sir; that was the first intimation I had that there might be any trouble at all, and then as we got up a little further, Tom Gaines came out of the garage with a shot gun.

Q. Where did he come from?

A. He came out of Lem Williams' office into the garage.

Q. How close to the office were you at that time?

A. Well, I would say, probably thirty feet.

Q. Who was near you?

A. Wiley Magee and—well there were several of us.

Q. Now tell us what happened just at that time?

A. Well, as Tom Gaines came out of the office to go in the garage, Wiley Magee covered him with his gun and told him to drop his gun, but instead of dropping it, he held it by the barrel, right at his side (wit-
756 ness illustrating), and about that time Lem Williams jumped to the door with a gun in his hand and Wiley Magee covered him and told him three times to drop his gun, and the third time, why, there was a shot fired and the shooting started.

Q. Did Wiley Magee tell Williams what you were there for?

A. Yes, sir. When Lem Williams stepped to the door, the first thing he says is "What in the hell do you want," and Wiley says "I have a warrant for Sol Dacus."

Q. What did he say to him when he stepped in the door, his exact words as well as you can remember them?

A. Well, when he asked "What in the hell do you want," he says "I have got a warrant for Dacus. Drop that gun," and he repeated that three times.

Q. Where did the first shot come from?

A. Came from the office.

Q. How do you know?

A. Well, I was close enough to tell where the report came from, and I was in position I could see the men inside.

Q. How far were you at that time from the office door?

A. Well, I should say probably twenty feet, something like that.

Q. In front?

A. Yes, sir.

Q. What did you do after the shooting occurred?

A. I came around the side of the premises
757 out in front, met Mr. Lindsley, and he told me to stay at the gate and watch and see nobody went inside the premises.

Q. Did you go to the office, go in the office, after the shooting?

A. No, sir, I did not.

Q. Go to the door?

A. No, sir.

Q. You didn't see what was in the office?

A. I did not.

Q. Did you see Bob Carson there?

A. No, sir, I did not.

Q. Was he there?

A. No, sir; he wasn't there. As Mr. Lindsley brought me around in front, I was in position to see practically everybody that was there, and I didn't see anything of Bob Carson.

Q. Did you see him later?

A. Not that I remember.

Q. Did you have occasion to answer that signal on any other date?

A. Yes, sir, I think about two or three weeks before; they figured there was going to be a jail delivery and the siren whistle was blown at that time.

Q. Where did you go?

A. I went to the City Hall.

Q. What did you find there, was there any crowd there?

758 A. There was a crowd out away from there, no crowd right at the jail; there was a few special officers there.

Q. What became of the crowd that was there after the special officers reached there?

A. They dispersed, and that was all there was to that.

Q. When you went to Lem Williams' office that day, did you go there to commit any violence?

A. No, sir, none whatever.

Q. Any shooting?

A. No, sir.

Q. What was your sole purpose, what was your purpose in going there?

A. Well, I was requested, as a special officer, to go, in the first place, and I went to help to arrest Sol Dacus.

Q. Did you work for the Great Southern Lumber Company at that time?

A. No, sir.

Q. Do you work for them now?

A. No, sir.

Q. Did you ever work for them?

A. About twelve or fourteen years ago.

Q. Do you know what the general reputation of Lem Williams was for peace and quiet in that community at that time?

A. It had gotten to be pretty bad.

759 Cross Examination.

By Mr. Higgins:

Q. How long have you been City Engineer?

A. I judge about nine years.

Q. By whom were you appointed?

A. By the Commission Council.

Q. Who was on the Council at that time?

A. Well, as near as I can remember—well, I don't remember just who were on—there was Mr. E. J. Cassidy, Joe Regan, and—well, I don't remember the other two.

Q. How many men are on there?

A. Four.

Q. These men appointed you?

A. Yes, sir.

Q. You don't remember the names?

A. No, sir, I don't.

Q. Who is E. R. Cassidy?

A. He is the acting mayor—that is, was at that time.

Q. Is he related to Mr. Jack Cassidy?

A. Yes, sir.

Q. He is the general manager, I understand, of the Great Southern Lumber Company—assistant general manager?

A. Yes, sir.

Q. And he was acting in Mr. Sullivan's place as mayor of Bogalusa at that time?

A. Yes, sir.

Q. How did you know what this signal was, of blowing the whistle?

A. Well, that was the signal that had been
760 adopted to use for calling the special officers.

Q. Who gave the signal to you?

A. Well, I don't remember whether it was Mr. Jules LeBlanc or Mr. Lindsley.

Q. Where were you to meet when you heard that whistle blow?

A. At the City Hall.

Q. Do you remember anybody else that met at the City Hall besides Chief Magee and yourself?

A. Well, there was Mr. Wilcox; I remember him because I rode in his car.

Q. Mr. Wilcox' car was used?

A. Yes.

Q. To go where?

A. To go to arrest Sol Dacus.

Q. Which Wilcox is that?

A. That is Mr. H. H. Wilcox.

Q. Is it Harold Wilcox?

A. Yes.

Q. Did you have a warrant for the arrest of Williams?

A. Did I have what?

Q. Did you have a warrant for the arrest of Lem Williams?

A. Not that I know of.

Q. Did you have a search warrant to go on his property?

A. Well, I couldn't say as to that.

Q. Did you have a gun with you when you went?

A. Yes, sir.

Q. What kind?

A. Shot gun.

761 Q. What kind of bullets were you using?

A. Well now, I couldn't say. It was a police gun. I don't know what kind.

Q. Was it your own gun?

A. No, sir, it was not.

Q. Who furnished it to you?

A. It belonged to the police department.

Q. Furnished by the City of Bogalusa or who?

A. Yes, sir; by the city, it was a regular police gun.

Q. Do you know whether you were using buck shot or not?

A. No, sir; I can't say.

Q. You don't know anything about these warrants you had, do you?

A. No, sir; not a thing.

Q. You don't know what these men were charged with, do you?

A. No, sir, I don't.

Q. How far were you from the door—when you got to Lem Williams' place, did you go in?

A. In the building?

Q. No; in the yard?

A. I did.

Q. With whom did you go in?

A. I don't remember exactly; I judge there was ten or twelve men.

Q. Well now, were you in the front or were you in the back?

A. Well, I was kind of to one side.

Q. How close were you to Wiley Magee?

A. I don't remember exactly, but not far.

762 Q. Who was in the lead?

A. I was kind of off to the side of Wiley Magee, a little to the back of him.

Q. Who was in the lead as they went in?

A. Wiley Magee and—well, I don't remember—four or five.

Q. Did you see any men standing around the office door of Lem Williams?

A. No, I didn't. Tom Gaines was the only man I saw to start with.

Q. He came out of the office?

A. Out of the office and into the garage.

Q. As you entered the property, you didn't see any one standing at Lem Williams' door?

A. Not that I remember.

Q. Well, you were there?

A. Yes, sir, I was there.

Q. You don't remember whether you saw anybody or not?

A. No, sir, I don't.

Q. You remember seeing Mrs. Williams and her sister coming to the door?

A. Yes, sir.

Q. You don't remember whether you saw anybody standing at that office door or not?

A. No, sir, I do not.

Q. How close were you to the office door when Gaines came out?

A. Well, I would say probably thirty feet,
763 something like that.

Q. And the next party you saw come to the door of Williams' office, was Lem Williams himself?

A. Yes, sir.

Q. Now, how far were you standing from the office door at that time?

A. Well, I judge at possibly twenty feet.

Q. I show you what purports to be a sketch of the place where the killing is supposed to have taken place. This represents Columbia Road, this is the two story building next door, this is the property of Lem Williams, this is the office, this is the garage and this is the residence. Now where were you standing in the yard at that time? (Counsel hands witness sketch and witness examines same.)

A. About in here somewhere. (Witness indicating.)

Q. You say about twenty feet from the office door?

A. I judge about twenty feet.

Q. When Williams came to the office door, could you see him?

A. Yes.

Q. You could see him very plainly?

A. Yes.

Q. There was nothing to intercept your view at all?

A. Not a thing.

Q. You didn't have anything in front of you?

A. Not a thing.

Q. What did Mr. Wiley Macgee have in his
764 hands at that time?

A. Well, I don't remember, he had a gun.

Q. Do you know what kind of gun?

A. I can't say.

Q. Do you know whether or not—What did Mr. Jules Le Blanc have in his hands?

A. I don't remember whether he had a shot gun or pistol, or what he had.

Q. Who else was with Wiley Macgee as he proceeded up to the office door?

A. Well, I don't remember, there was about, I judge about twelve men that went in and I can't say just what their respective positions were after they got in there.

Q. Were all of these men armed?

A. I can't say as to that.

Q. About how many of them were armed?

A. That is something else I don't know.

Q. You know that you were armed?

A. Yes.

Q. You know that Wiley Macgee was armed?

A. Yes.

Q. But you don't know whether Jules LeBlanc was armed or not?

A. I couldn't say as to what kind of gun he had, whether pistol, shot gun, riffle or what, they were all supposed to be armed that were there.

Q. Were all of these arms kept at the city
765 hall?

A. Yes, sir.

Q. And that is where everybody got their arms?

A. Well, I won't say all of them, but the majority of them did.

Q. Well now, where did you get these automobiles from?

A. They belonged to different individuals that answered the call. I didn't have a car at that time.

Q. Was the LeBlanc car used, do you know?

A. Not that I know of.

Q. Who furnished these cars, if you know?

A. The different individuals that happened to own a car.

Q. Can't you name them?

A. No, sir, I can't.

Q. You stated that as Mrs. Williams and her sister came out of the yard, that was your first intimation of trouble, now why did you say that?

A. Well, I couldn't see why they would be leaving the premises, unless they figured there was going to be trouble.

Q. You don't grant them a right to come out of their own property?

A. Well, yes, but I didn't feel that there was any special reason at that time.

Q. Didn't you just say that all you men were armed that were going into the place at that time?

A. They were.

766 Q. You didn't figure that was a sufficient reason for those women wanting to get away?

A. Well, if there had been any chance of trouble, I figured she was in a position to know whether there was going to be any trouble or not. We went there without any idea of any trouble.

Q. You went there without any idea of trouble, but you were well prepared for it if necessary?

A. Yes, sir, if it should come.

Q. Was there any special reason why Wiley Macgee led the force of men on that place?

A. Nothing more than he had the warrants.

Q. Was there any reason why he should have been given these warrants?

A. Well, not that I know of.

Q. Well, Lindsley was Commissioner of Public Safety, was he not?

A. Yes, sir.

Q. He was supposed to be in charge of that right?
A. He was in charge of the Police Department, as to that part of it, why I can't say.
Q. You don't know whether he was in charge of the squad of special officers or not, do you?
A. Mr. Lindsley was there.
Q. Did you have a warrant for the arrest of Tom Gaines?
A. Not that I know of.
Q. Was Gaines in any way pointing his gun toward you men at the time you ordered him to drop
767 it?
A. Well, I didn't notice, when Wiley Macgee covered him was the first time I noticed the gun.
Q. Why did Wiley Macgee cover him?
A. Well, he was coming out of this office with a gun.
Q. With a shot gun?
A. Yes, sir.
Q. Did he point it at Wiley Macgee?
A. No, but he was headed into the garage with it.
Q. Is that against the City Ordinance of Bogalusa?

Mr. Dufour:
I object, that is calling for the opinion of the witness.

Mr. Higgins:
He is a special officer, he ought to know something about the law.

Mr. Dufour:
No, if you are a special officer, you are not supposed to know anything about the law.

Mr. Higgins:
That is very correct.

The Court:

He can state if he knows there was an ordinance of that kind.

By Mr. Higgins:

Q. Answer that question, was there a city ordinance against having a shot gun?

A. I can't say.

768 Q. The only reason why Wiley Macgee covered Tom Gaines was because Tom Gaines happened to have a single barrel shot gun in his hand?

A. Well, I don't know what Wiley's motive was, but when a man is going into a place of concealment with a shot gun, you will naturally use some precaution.

Q. I am not asking you what was in Wiley Macgee's head, I am asking you—

Mr. Dufour:

You are asking him if the only reason why Wiley Macgee covered Gaines was because Gaines happened to have a gun in his hand, that is just the question you did ask him.

Q. You didn't see Gaines point this gun at Macgee did you?

A. No, sir.

Q. Now, when he ordered him to put the gun down, you say he stood the stock of the gun on the ground and held it by the barrel and told him to come and get it?

A. No, I didn't say I heard him to say come and get it, but I saw him drop the gun at his side and hold the barrel.

Q. And that was the position the gun was in at that time?

A. Yes, sir.

Q. Then what happened?

A. That is when Lem Williams stepped to
769 the door with his gun and asked Wiley Macgee what in the hell do you want.

Q. Are you sure that was the exact language he used?

A. Yes, that is the words he used.

Q. And what did Wiley Macgee say?

A. Wiley says I have a warrant for Sol Dacus, put that gun down, and repeated that three times, and the third time somebody made a shot apparently with a riffle, as near as I could tell.

Q. You say he repeated three times, put that gun down?

A. Yes.

Q. Repeated that three times?

A. Yes.

Q. And did Williams put the gun down?

A. No, sir, he didn't, not that I know of, they started to shooting at that time.

Q. At that time the shooting started?

A. There was a shot made from in the office, and when that shot was made why the shooting started.

Q. Macgee said to Williams at the time Williams appeared in the door—what kind of a gun did he have in his hands?

A. As near as I could tell it was an automatic.

Q. What kind of an automatic, a pistol or shot gun?

A. Pistol.

Q. The shooting started immediately at the time that Wiley Macgee ordered Williams, who appeared
770 in the door with an automatic pistol in his hand, having ordered Williams to put it down, having ordered him three times, is that correct?

A. After the shooting was made in the office, from the office.

Q. Was the order given to put down the gun before the shot was fired or after?

A. He said that three distinct times before there was any shooting, and about the time he said it the third time it was when somebody made that shot and the shooting started.

Q. And you say Williams didn't put down his gun?

A. No, sir.

Q. Now, how do you know this shot came from inside of the building?

A. Well, I was up close enough so I could hear the report and also in position where I could see pretty well the men outside.

Q. You couldn't say whether or not Jules LeBlanc had a shot gun or pistol, could you?

A. Well, I expect I could, I couldn't tell you really what any of the men had.

Q. Did you see the flash of the fire from the first shot?

A. I did not.

Q. Do you know in what direction the gun was pointing at the time that shot was fired?

771 A. I do not.

Q. The only reason why you said the shot was fired from the inside was by your judgment of sound, is that correct?

A. That is right.

Q. In which direction were you looking at that time?

A. I was looking toward the office?

Q. Do you know whether or not they had men stationed around this property as a matter of surrounding it, special officers?

A. No, sir, I can't say.

Q. Whom did you see shooting among the special officers, if anybody?

A. Not any of them.

Q. You didn't see any of them shoot?
A. No, sir.
Q. Do you know whether or not they fired any shots?
A. I really can't say.
Q. Did you run or did you stay there?
A. I tried to get out of there.
Q. Now, how large a man are you, Mr. Willis, how much do you weigh?
A. About 190 pounds and some odd.
Q. How much did you weigh in 1919, do you know?
A. No, sir, I can't say.
Q. How large were you then, how tall?
A. I presume the same height I am now.
Q. Were you as heavy as you are now?
A. I don't think quite.
772 Q. How old did you say you were?
A. Thirty-seven.
Q. At that time you were 31?
A. I judge so.
Q. You didn't go into the office after the shooting?
A. I did not.
Q. You didn't see Bob Carson?
A. No, sir.
Q. You said something about having heard this signal blown on one previous occasion when labor was coming to Bogalusa. For whom was that labor?
A. Well, I think it was for the Great Southern Lumber Co.
Q. And this whistle was blown on that occasion for what purpose?
A. The police had made some arrests previous to this and they were going to make a jail delivery.
Q. Was that on the same day as the jail delivery, or a previous occasion?
A. That was on the same day as near as I can remember.

Q. The jail delivery happened on the same day that the whistle was blown for the purpose of protecting labor that was coming to the Great Southern Lumber Company is that correct?

A. The whistle was blown on account of the jail delivery, these men were congregated at that time to make a jail delivery, there were two or three of these men in jail.

773 Q. Alright. Now you said the whistle was blown on one occasion when labor was coming to the Great Southern Lumber Co., isn't that correct?

A. That was on this same day.

Q. Were there two signals blown?

A. No, sir, only one.

Q. Was the signal blown for the purpose of preventing a jail delivery, or was it blown for the purpose of—

A. Preventing a jail delivery, they figured on getting these men out of jail in order—

Q. Wait a minute, do you know that of your own knowledge?

A. No, sir, I do not.

Q. Then don't tell us anything you don't know?

A. (No answer.)

Q. You don't know as a matter of fact, of your own knowledge whether Dacus was at Williams' place or not, do you, except what somebody told you?

A. Yes, sir, it was reported.

Q. Did you see Dacus there that day?

A. I did not.

Q. You didn't see Lem Williams at the time he was shot, did you?

A. No, sir, I did not.

Q. Do you know where his body was found?

A. No, sir, I couldn't say.

Q. (Counsel exhibiting map to witness). You say Lem Williams was standing in this office door at the time Wiley Macgee was standing where?

774 A. He was right in there I should say (Witness indicating).

Q. How far were you from the office door?

A. Well, I judge ten or fifteen feet, something like that.

Q. Wiley Macgee was ten or fifteen feet from the door?

A. Yes, sir.

Q. Sure of that?

A. Well, I am not sure, but I would say approximately.

Q. Williams was like in this door at the time of the shooting, when it started?

A. Yes, sir.

Q. Did you see a man come from Williams' office and speak to Jules LeBlanc, stating that Williams said for them to come in?

Mr. Talley:

Just a minute, if the Court please. That is certainly not crossing anything the witness has stated and under the rules of the Federal Court we cannot go beyond the Direct Examination.

The Court:

For the purpose of testing his memory and means of observation, I suppose it is admissible, I will let him answer it.

Mr. Talley:

I reserve a bill.

By Mr. Higgins:

Q. Did you see or hear Jules LeBlanc summons a man who was standing at Lem Williams door as you came in the gate and was in Lem Williams' property?

A. Not that I remember.

775 Q. You don't remember. Do you remember whether or not the man that is supposed to have been summoned by Paul LeBlanc—Jules LeBlanc, came back and said Williams said to come in?

A. No, sir.

Q. You were not there?

A. I was there, but I don't remember that.

Q. The only conversation you remember took place between Wiley Macgee and Lem Williams, near Lem Williams' office door?

A. Yes, sir.

Q. And that was that he had a warrant for Dacus?

A. That is it.

Q. And you didn't see Dacus there?

A. I did not.

Q. Did the special officers escort the labor from the train to the mill?

A. Did they escort them?

Q. Yes, did they?

A. They did, yes, on one occasion—a special officer didn't, the police officers did.

Q. Well, who were the police officers?

A. Well, I don't remember, I think Johnnie Branch was one of them.

Q. Any others?

A. I don't remember.

776 M. D. STEPHENS: witness, being duly sworn and examined on behalf of Defendants, testified as follows:

Direct Examination:

By Mr. Dufour:

Q. What is your name?

A. M. D. Stephens.

Q. Where do you live?

A. Bogalusa.

Q. How old are you?

A. Thirty-four.

Q. How long have you lived in Bogalusa?

A. Ever since 1909.

Q. What is your occupation?

A. Manager of the International Harvester Company's business there for the last nine years.

Q. How long have you been Manager of the International Harvester Company?

A. Nine years.

Q. Did you serve as a special officer in the city of Bogalusa in October and November 1919?

A. I did.

Q. Were you on the city pay roll?

A. Yes, sir.

Q. What pay did you get?

A. I believe it was $103.00 a month or $112.00, I forget which.

Q. What was your beat at that time?

A. Well, principally the Southwestern portion of Bogalusa.

Q. Were you on day duty or night duty?

A. Day duty.

777 Q. Do you recall the blowing of the fire whistle of the Great Southern Lumber Company on November 22, 1919?

A. Oh, yes.

Q. Did you have an instructions to respond to that whistle?

A. I did.

Q. What were those instructions?

A. Well, the instructions were when that whistle blowed, it was calling all of the police together.

Q. Where did you go?

A. To the city hall.

Q. When you reached the city hall on that occasion, who did you find there?

A. I found Mr. Lindsley, Chief Maxgee and a few of the regular policemen and several special policemen.

Q. Were you told what the purpose of assembling the special police was?

A. Yes.

Q. What?

A. That two men had been marching with Sol Dacus—

Mr. Higgins:

Just a minute, I object.

The Court:

Just state what the condition was that made it necessary to call in special police.

By Mr Dufour:

Q. For what purpose were you assembled?

A. To go and arrest Sol Dacus, Bouchillon and O'Rourke.

Q. Do you know why they were to be ar-
778 rested?

A. I suppose dangerous characters.

Q. I don't mean the charge, but were there any warrants out for them?

A. Yes, sir.

Q. Who had the warrants?

A. Mr. Wiley Macgee.

Q. Who went to effect that arrest?

A. I don't know just who all were in the bunch, but there were several.

Q. Do you recall them?

A. Mr. Macgee and Jules LeBlanc were the men that had the warrants.

Q. Did you go with them?

A. Yes, sir.

Q. Was Mr. Lindsley there?

A. I saw Mr. Lindsley just after it was all over, I don't know whether he was in the first crowd or not.

Q. In whose car did you ride?

A. I believe Mr. Gilbert and myself were together.

Q. What happened on arrival at Lem Williams' place?

A. Well, when I got there I was in one of the last cars to get there and when I got there, there were some people in the yard already, I don't know just who now, except Jules LeBlanc and Wiley Macgee, and they were approaching his office, and when I got there, I stopped just outside the fence right in front where I could have a good observation.

Q. Where did you go from there?

A. Well, I stopped right there until immedi-
779 ately after the shooting when I went back in and helped to bring O'Rourke out.

Q. Did you hear a conversation between Macgee and anybody else?

A. I did.

Q. What did you hear?

A. I heard Macgee tell him to put that gun down, he didn't want to hurt him, he had a warrant for the negro.

Q. Do you know who he was talking to?

A. No, sir, I couldn't see who was in there, but I did see Lem Williams.

Q. Could you see in the doorway?

A. No, sir I couldn't see in the doorway.

Q. Why?

A. Because the door opens, the way the office was built there where I was I couldn't see right in the front door.

Q. Did you hear the first shot?

A. Yes, sir.

Q. Where did it come from?

A. From the office.

Q. You are sure of that?

A. Yes, sir.

Q. What did you do immediately after the shooting was over?

A. Well, as soon as the guns ceased, about the time they ceased, I started in there after O'Rourke, O'Rourke came out of there, he got out of the office somewhere back into the other man's yard, got over the fence right by the corner of the office, and when he did that someone shot him, I seen him stumble over and fall
780 and I backed around there and picked him up and helped bring him out.

Q. Did you find him there?

A. Yes, sir.

Q. Where was he?

A. Back of that hotel in the back yard.

Q. Near the office?

A. Yes, right up close to the office.

Q. Where was his gun?

A. He had dropped it in the wood pile.

Q. How near was it to the wood pile?

A. Why he was stumbling around I guess, he was eight or ten feet of the wood pile when I found him.

Q. Did you see any other gun back there?

A. No, sir, I never saw but one back there, back in this part of the yard.

Q. Did you go back to the toilet?

A. Not clean to the toilet, no, sir.

Q. Did you see any guns back there?

A. In the toilet, no, sir.

Q. You only saw O'Rourke's gun in this—

A. In this particular place.

Q. Did you go into the office?

A. Yes, sir.

Q. Did you see any guns in there?

A. Yes, sir.

Q. What guns did you see in there?

781 A. One twenty gauge pump shot gun— I am sure it was a twenty— I am almost sure but not positive, twenty gauge shot gun, it was a pump shot gun and there was a pistol and a single barrel shot gun and there was another, I don't know whether it was a rifle or what.

Q. You saw those guns in the office?

A. Yes, sir.

Q. That was immediately after the shooting?

A. Yes, sir.

Q. How long after the shooting, say?

A. Well, I guess some eight or ten minutes, something like that, just as soon as I came out with O'Rourke, I went back in there.

Cross Examination:

By Mr. Higgins:

Q. What business did you say you were in during 1919?

A. During 1919 I was Manager of the International Harvester Company in the latter part, and also employed by the city of Bogalusa.

Q. In what capacity were you working for the Harvester Company?

A. Manager of the local branch.

Q. Any particular department or the whole business?

A. Well, the purchasing department.

Q. You were also a policeman at that time?

A. Yes, sir.

Q. How much time did you have to spend at your office as Manager?

782 A. I was not required there, the labor trouble had shut down everything and they had run the men off.

Q. Oh, I see. You were not working at that time?

A. The only thing I had to do was to see that the lumber didn't disappear from the yard, at that particular time after the labor had shut down everything.

Q. You say lumber?

A. Sure.

Q. In whose yard?

A. In the International Harvester Company's yard.

Q. That is not a lumber business, is it?

A. Yes, sir, you buy lumber.

Q. From whom?

A. The Great Southern Lumber Co. and other people too.

Q. Were you in the contracting business during that time?

A. Yes, sir, we had a contract to buy lumber from the Great Southern Lumber Company.

Q. In addition to that you were acting as special officer for the city of Bogalusa?

A. Yes, sir.

Q. How many hours a day did you have to work?

A. Well, my working hours were twelve to twelve.

Q. Twelve noon to twelve night?

A. And of course, I worked any time they needed me.

Q. You didn't have any particular beat that you had to control?

A. No, no particular beat, but principally I had charge of the police business in the southwest
783 corner of Bogalusa.

Q. Did you see those warrants that day?

A. Yes, sir, I saw that Dacus warrant.

Q. What was he charged with?

A. Well, I didn't have the warrant in my hands, I saw the paper though, the warrant was handed to Mr. Macgee, saying here is the warrant for Dacus.

Q. Do you know what he was charged with?

A. No, sir, I do not.

Q. You never read it?

A. No, sir, I never read it.

A. As far as you know, it was not a warrant, is that right?

A. It was on the warrant paper.

Q. You didn't read it, did you?

A. I didn't read it.

Q. You only know it was a warrant because somebody told you, is that correct?

A. That is right.

Q. Where were you at the time the siren whistle blew?

A. In my office.

Q. How far is that from the city hall?

A. It is a block, I guess, half a mile, something like that.

Q. How did you get there, by automobile, or on foot?

A. I went on foot.

Q. You say when you arrived at city hall, you found Mr. Lindsley and Macgee, and who else?

A. There were several others, I forgot their
784 names.

Q. Was Jules LeBlance there?

A. Yes, sir.

Q. Whose cars did you use to go to Lem Williams' place in?

A. Used the fellows cars, the fellows who had cars, I don't know who they all were. If I remember right I was in Mr. Gilbert's car, my car broke down at that time and I was not using it.

Q. What Gilbert is that?

A. W. V. Gilbert, I believe, I am not sure whether I was in his car, it has been so long ago, I don't know whether I was.

Q. Did you use Dr. Brister's car that day?

A. No, sir.

Q. Sure of that?

A. Sure.

Q. Where did you get the guns that the special officers were equipped with?

A. The special officers— I had my own gun.

Q. Did you see any guns at the city hall?

A. No, sir.

Q. Did you all keep those guns there?

A. I kept my gun in my pocket, I didn't use anything but a pistol.

Q. Did you see any police guns at the city hall that day?

A. No, sir.

Q. Sure of it?

A. Sure.

Q. You say you were the last to arrive at Williams' place?

A. Yes, I was in the last car, I don't know
785 exactly if it was the last car or not, but among the last.

Q. Did you know where you were going?

A. Sure.

Q. Did you know you were going to Williams' place?

A. Yes.

Q. Going to Williams' place to arrest Dacus?

A. Yes.

Q. Did you see Sol Dacus there when you got there?

A. No, sir.

Q. Did you see him after the shooting?

A. No.

Q. You say you stopped outside of the fence?

A. Yes.

Q. And you could hear the conversation that took place between Macgee in the yard and Williams in the office door, is that right?

A. That is right.

Q. Did you see a man named Tom Gaines?

A. Yes.

Q. You didn't see Williams when he came to the door?

A. No.

Q. Do you recall whether or not the shooting took place before or after the conversation between Macgee and Williams?

A. The shooting took place just after the conversation.

Q. What did Macgee tell Williams?

A. Put that gun down, he didn't want to hurt him, he had a warrant for a negro.

Q. How many times did he say that?

A. I heard him say, put that gun down, put that gun down, put that gun down, I have a warrant for Dacus.

Q. That is how many times you heard it?

786 A. That is how many times I heard it.

Q. You heard every word he said, didn't you?

A. I couldn't say that because I was watching the other part of the building, the two story building, to see whether anybody shot from there.

Q. Did you look for people to shoot out of this two story building?

A. It was possible.

Q. So you expected trouble before you went there?

A. (No answer.)

Q. What were you looking at that place for?

A. Well, naturally, a man would try to watch those things you know.

Q. Well, you say you had a warrant for the arrest of Dacus, Bouchillon and O'Rourke, is that correct?

A. Well, the warrant was for Dacus, I am not sure as to Bouchillon or O'Rourke.

Q. You don't know what the charges against these men were, do you?

A. No, sir.

Q. Do you know who fired the first shot?

A. I can't say that, the first shot was fired from the office.

Q. Came from the office?

A. Yes, sir.

Q. You are sure it didn't come from that two story building?

A. I am sure it came from the office.

Q. Did you see the flash of the gun?

A. I saw the smoke of the gun.

787 Q. Out of which window did it come?

A. I can't say whether it came out of the window that is closest to the door or the— or the—

Q. You couldn't say whether it was cigarette or gun smoke?

A. It was gun smoke.

Q. How do you know that?

A. It would not be cigarette smoke right after the report of the gun.

Q. Will you swear that the men in the office were not smoking?

A. Well, that I can't say.

Q. And the only reason why you say that shot was fired from the office is because you saw some smoke coming out of the window?

A. No, I am confirmed by the report of the fire to a certain extent, I could tell from the muffled sound that it was shot inside of the building.

Q. How many building were there around there?

A. Oh, there were several buildings, the garage and the office, and there was a little building in that yard and then there was the two story building right at the side in the next yard.

Q. You didn't see the flash of the gun?

A. No, sir.

Q. You didn't see the gun, in which way it was pointed at the time it was shot, did you?

A. Why I couldn't see anything at the door,
788 but I saw the fellow raise the gun up at the window.

Q. You saw a man raise a gun up at the window?

A. Yes.

Q. Which window?

A. The west one.

Q. Was that before the general shooting or afterwards?

A. All about the same time, just before the general shooting took place.

Q. Who was it you saw?

A. Bouchillon.

Q. You saw Bouchillon?

A. Yes, sir.

Q. You are positive of that?

A. Sure.

Q. How high is that fence at Williams' place?

A. I don't know, I guess some— two or three different kinds of fence there.

Q. Well, at that time?

A. The best I remember, there was a wire fence there on the south or southwest corner, if I remember right, it was wire, I am not sure, I don't know what kind of fence it was, but it seems to me it was pickets and wire.

Q. What kind of gun did Bouchillon have?

A. Either a twenty gauge or a sixteen gauge Winchester pump gun.

Q. Did you see him fire the gun?

A. Yes, sir, he fired it.

Q. In which direction?

A. He fired the gun in a southwesterly
789 direction.

Q. Which is south, toward Columbia Road?

A. Well, they were on the east side of Columbia Road and was pointing the gun toward Columbia Road.

Q. Let's see which way it went (Counsel exhibiting map). This is supposed to be Columbia Road— hold the map so the Jury can see it?

A. Here is the door, and it was fired kind of this way. (Witness indicating).

Q. When was that?

A. Well, that was about the time that this— that they were shooting in the yard— well they all came after— there were two shots fired out of there and about the same time—

Q. Out of the office?

A. Out of the office.

Q. Are you prepared to swear that was the real first shot?

A. Why I saw, when this report came out of the office, I saw Jules LeBlanc flinch and Macgee flinch, I knew he was shot.

Q. Where was Jules LeBlanc?

A. Standing right here somewhere before that door (witness indicating) I couldn't say exactly where, but kind of near this door (witness indicating).

Q. Where were you standing?

A. I was standing right here somewhere (witness indicating).

Q. Standing over here out on Columbia Road?

A. Right along here. (Witness indicating.)

790 Q. Did you go back this way? (Counsel indicating.)

A. No, sir, I came back out here and back this way (witness indicating) and there is a driveway to the best of my knowledge— well, I know there was a driveway right at this building and there is where O'Rourke came, came right in here. (Witness indicating.)

Q. Now, you say you saw Jules LeBlanc when he was shot?

A. Saw him when he was shot.

Q. Where was he standing?

A. Standing right in here somewhere. (Witness indicating.)

Q. Was he close to this garage door?

A. The map looks like there is a whole lot of space up in here.

Q. Was he standing close to the garage door or standing over toward Williams' residence?

A. He was right up in here somewhere (witness indicating) he was not right up in this door but he was right up in here somewhere.

Q. How far was Wiley Macgee from this door at that time?

A. Right in along here.

Q. How many feet from the street?

A. I can't say.

Q. How many feet was Mr. Levert from the street?

A. That would be hard to say, I don't remember.

The Court:

Talk a little louder.

791 By Mr. Higgins:

Q. Now, at first when you went there, where were you standing?

A. Well, I got off of the car somewhere here (witness indicating) and I walked over here and I stopped here (witness indicating) and I came back around here.

Q. Where were you standing at the time the shooting started?

A. I was standing here where I stopped.

Q. You stopped this car and came—

A. I wasn't driving, the other fellow stopped over here (witness indicating) and I came right along in here somewhere. (Witness indicating.)

Q. You were standing here at the time the shot was fired? (Counsel indicating.)

A. Yes, sir.

Q. And you could see these men in the back yard here? (Counsel indicating.)

A. I had a clear observation of this door over here. (Witness indicating.)

Q. Which door?

A. This garage door and I could see— of course, I could— not see out this door you understand, but I could see in this door.

Q. What about this residence here? (Counsel indicating.)

A. This is a porch here (witness indicating) and this is a porch here. (Witness indicating.)

792 Mr. Dufour:

He said he could see through the window.

A. (Witness continuing) You see this building don't give you an observation from here to this building, this map may not be accurate, but I know this, I have been back here and I know you can see from here to this door. (Witness indicating.)

By Mr. Higgins:

Q. How many feet is it from here to there? (Counsel indicating).

A. I don't know.

Q. How far were you from where you were you were standing to that door?

A. I judge it is about fifty feet from here on that lot, I don't remember just what size that garage is and how far back it is on the lot.

Q. I will ask you this. Will you estimate how far you were standing from the office door at the time you heard this conversation between Williams and Macgee?

A. I judge about fifty feet.

Q. Now, did you say there was a fence in here, the same kind of fence—?

A. The same kind of fence to the best of my knowledge, some little old trash fence built in there, I just don't know what it is.

Q. What kind of a fence did they have there?

A. Practically the same kind.

Q. You don't recall who else furnished auto-
793 mobiles on that day?

A. I don't konw.

Q. When the shooting started what did you do?

A. I stayed there and watched as best I could.

Q. Did you move around?

A. No, stayed in that one place.

Q. Did you fire your gun?

A. No, sir.

Q. Did you see any of these special officers fire their guns?

A. I can't say who fired.

Q. You didn't see them?

A. No, sir.

Q. How long did you stay outside of that property?

A. Not so long, then I went back and went through there and about the time I got there, I don't remember, but I believe it was then Macgee came up and assisted me in taking O'Rourke around and turning him over to Major Guerre and asked him to take him to the hospital.

Q. And then you came in and went into the property, is that right?

A. Yes, sir.

Q. You stated you saw some guns in there?

A. Yes, sir.

Q. Will you state of your own personal knowledge whether Lem Williams put those guns in there?

A. They were in there, he was bound to have put them in because I saw Bouchillon with a gun in his hands at the window myself, I knew every one of them did, Bouchillon, O'Rourke, Lem Williams and Tom Gaines.

I saw Tom Gaines come out of the office with
794 a gun in his hands.

Q. What kind of a gun?

A. Single barrel shot gun.

Q. Did he have any conversation with Wiley Macgee?

A. Wiley Macgee stopped him, I can't recall just what the conversation was but it was only for just a short period of time and he started off with the gun in his hand into the garage.

Q. And he had it by the barrel?

A. Yes.

Q. And Wiley Macgee covered him?

A. Wiley Macgee turned to the office door about that time.

Q. Well, I am talking about Tom Gaines, did Wiley Macgee cover him with the gun?

A. No.

Q. He didn't?

A. He did not.

Q. Are you positive of that?

A. Positive.

Q. You didn't see Wiley Macgee point his gun at Tom Gaines?

A. I did not.

Q. You are sure of that?

A. Sure.

Q. He let Gaines go in the garage with a gun in his hands?

A. He turned from Gaines and turned to Lem about that time and I heard him say, put that gun down, put that gun down, I don't want to hurt you, I have got a warrant here for a negro.

Q. You didn't see Lem Williams then?

795 A. No, sir.

Q. You don't know whether he had a gun in his hand or not?

A. I don't know.

Q. And after all the shooting was over you went in?

A. I went in.

Q. And how long did you stay on the street after the shooting was over before you came in?

A. Just long enough to come in there and bring O'Rourke out.

Q. O'Rourke was outside the building was he not?

A. He went outside the building into this back yard.

Q. And you brought him out of the back yard?

A. And sent him to the hospital.

Q. Which back yard was it, the back yard of this two story building?

A. Yes, sir.

Q. And you brought him out and put him in the automobile and sent him to the hospital?

A. Yes.

Q. And after that you came back and went into the office, is that right?

A. Yes.

Q. Now, I ask you again of your own personal knowledge, did you see Lem Williams put that gun in the office?

Mr. Miller:

I object.

A. I said I did not see Lem Williams put any gun in the office, but I saw Bouchillon in the office with a gun and I saw Tom Gaines come out of the office with a gun and I saw a gun in the office after the shooting.

Q. You said these guns at that time to be
796 about there?

A. (No answer.)

Q. Now you say you saw Bouchillon at the time he fired the shot out of that window which faces Colorado Road?

A. I did.

Q. And you had a gun yourself?

A. I had a pistol.

Q. And you never attempted to use your gun?

A. I was watching other places all at the same time.

Q. And did you draw your gun at all?

A. No, sir.

Q. And you were a regular police officer of the city?

A. Yes, sir.

Q. How many police officers, special officers, were injured that day?

A. None but Jules LeBlanc that I know of.

Q. You don't know of any others?

A. No, sir.

Q. Where was O'Rourke wounded?

A. I believe they said he was wounded in here (witness indicating) one shot, or one or two shots in the arm, I don't remember, I don't know at this time.

Q. Did O'Rourke get well of his wounds?

A. No, sir, he died later.

Q. Now, you were observing this two story building, you were observing the office, and you were looking at the men in the yard too, were you not?

A. As best I could, yes. My eyes were not on the office building all the time, I was looking
797 around to see the fellows in the yard, seeing Bouchillon come out of the window, my eyes were traveling from one place to another, of course, they were all right there together.

Q. Bouchillon was shooting at the special officers, is that correct?

A. Yes, sir.

Q. You made no attempt to shoot him when you saw him do that?

A. Well, I didn't make any attempt because I figured that there were others in there, who would take care of that.

Q. You stopped outside where there were not shots, is that right?

A. (No answer.)

Q. You stayed outside, you were not in where the shooting was going on?

A. I don't recall, I don't know just how long it was.

Q. You never saw any of these special police officers fire any shots?

A. No, sir.

Q. When you went into this office building you found two men dead, that is right is it not?

A. Yes.

Q. Who did you find in there?

Q. Bouchillon and Lem Williams.

Q. Did you find anybody dead in the garage?

A. Tom Gaines was dead in the garage.

Q. And you found O'Rourke wounded?

A. O'Rourke was wounded, yes.

798 By Mr. Miller:

Q. To get my mind clear on this, Mr. Stephens, you say the first shot was fired out of the door of the office?

A. Yes, sir.

Q. That is not from the shot gun you saw Bouchillon have at the window?

A. No, sir, the shot from Bouchillon was from a shot gun, from the way it sounded, this first shot sounded to me like from a rifle or an automatic pistol.

Q. Bouchillon was shooting with a shot gun?

A. Yes.

Q. Did you know Lem Villiams?

A. Yes, sir.

Q. How long had you known him before that?

A. I had known Lem Wiliams for some three or four years.

Q. Do you know what hi general reputation was in Bogalusa for peace and quet?

A. It was bad.

Q. Did you know Bouchilbn and O'Rourke?

A. Yes.

Q. Do you know what thei reputation was?

A. Well, their reputation was bad.

Q. And you heard Lem Villiams' reputation discussed in Bogalusa?

A. Yes.

Q. Frequently?

A. Frequently, yes.

Q. And the general concession of opinion was, it was bad?

Mr. Higgins:

I object to a question of that kind, he has asked what his general reputation was and then he comes back and asks what the general concession of opinion was. I ask that that be stricken out.

799

The Court:

Why strike it out, is not that what the general reputation is.

Mr. Higgins:

I reserve a bill.

O. J. SHERMAN, witness, being duly sworn and examined on behalf of Defendant, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. What is your name?

A. O. J. Sherman.

Q. Where do you reside?

A. Bogalusa.

Q. What is your business there?

A. Fire Chief.

Q. Chief of the Fire Department?

A. Yes, sir.

Q. How long have you been chief of the fire department?

A. Well, all told, I would say seven years, I think about seven years as paid chief and then I was volunteer chief previous to that about ten or eleven years.

Q. What was your occupation on December 22, 1919?

A. I was running a hat shop, a millinery store.

Q. Were you connected with the fire department then?

A. No, sir.

Q. So your tender of office doesn't go back to November 22, 1919?

800

A. No. sir, I was out of the department possibly a year and a half, or a year and three or four months, something like that.

Q. But you were out of the fire department?

A. Yes, sir.

Q. Running this hat store?

A. Yes, sir.

Q. Were you in business for yourself?

A. Yes, sir.

Q. Were you a special officer of the city of Bogalusa in 1919?

A. No, sir.

Q. You didn't volunteer as a special officer?

A. No, sir.

Q. Had you previously held any positions in Washington Parish?

A. Well, I had been a Deputy Sheriff previous to that.

Q. How long?

A. Possibly four or five years.

Q. Were you present at Lem Williams' office on November 22, 1919?

A. I am not positive as to that specific date.

Q. The day of the shooting?

A. The day of the shooting I was.

Q. How did you happen to be there?

A. Well, as a sight seer.

Q. Spectator?

A. Yes, sir.

Q. What attracted your attention to the place?

A. Well, the first thing that attracted my attention was the knowledge that Lem Williams had guns there and I had gone over there—he was in front of
801 the place and I followed him down there and I saw him go in there and I reported that matter to the chief of police, knowing that he was wanted from the day previous.

Q. Who was with him on that occasion?

A. I knew one of the men's name, O'Rourke, but I don't know the other man, I don't know him by name.

Q. There were two white men?

A. Two white men.

Q. About what hour of the day was that?

A. It was before dinner sometime, I can't say the specific hour.

Q. Were these men armed?

A. Yes, sir.

Q. What did they have?

Mr. Higgins:

I object.

The Court:

Let him answer.

By Mr. Dufour:

Q. Were they armed?

A. Each of them were armed with a shot gun.

Q. You say you knew there was a warrant outstanding for Dacus' arrest?

A. Yes, sir.

Q. Now, don't answer this question until counsel gets a chance to object. What were those men that were

armed with shot guns saying and doing when you saw them at or near Williams' place that day?

802 Mr. Higgins:
I object on the ground previously urged.

The Court:
I sustain the objection.

Mr. Dufour:
I reserve a bill.

Q. To whom did you report it?
A. To the chief of police.
Q. You reported the things you have just narrated?
A. Yes, sir.
Q. After reporting that to the chief, where did you go?
A. I went to the depot and mailed some letters in the depot mail box.
Q. And then where did you go?
A. I stayed around there possibly five or six minutes and came back to the city hall.
Q. Did you hear the fire whistle blow on that day?
A. Yes, sir.
Q. Did you go with any of the special officers to Lem Williams place of business?
A. No, sir.
Q. Did you see them leave the city hall to go there?
A. Yes, sir.
Q. Did you follow them?
A. Yes, sir.
Q. Where were they when you arrived there?
A. They were leaving the city hall just before I got there and I just put in behind their course and followed them.

Q. You were in a car, were you?

A. Yes.

Q. Were you armed?

803 A. No, sir.

Q. State what happened when these police officers arrived there?

A. Well, they just entered the front yard, but I didn't go in the front yard.

Q. Where did you go?

A. I went into the lot next door and went alongside the little house to the rear and entered from the side, I walked on the premises next door to the space of about twenty-five feet in there, possibly fifteen feet.

Q. Could you see the office from that point, where you were.

A. Where I stopped, after I got in I could see it.

Q. You could see the office door?

A. Yes, sir.

Q. Tell us what happened when you reached that point?

A. About the time I got to the corner of the house, I heard Mr. Macgee distinctly ask someone to lay down the gun.

Q. Do you know who he was addressing?

A. Well, no, sir, not directly, there were two men visible.

Q. Where were they?

A. Mr. Williams was in the door and there was another man off to the right with a shot gun in his hands.

Q. Do you know where that man had come from?

A. He had just left out of the door when I came to the corner and as Williams came to the door, he backed off.

Q. Came to the door of the office, do you
804 know who that man was?

A. I don't know the man who came out first, but I did know Mr. Williams.

Q. You found out since who that man was, the first man, that one in the garage?

A. I understand from hearsay, I couldn't identify him.

Q. What happened to that man whose name you did not know?

A. The man got killed.

Q. Did you see him after he was killed?

A. Yes, sir.

Q. Who was he supposed to be?

A. Gaines, they mentioned his name as Gaines, I didn't know him personally.

Q. Did you take part in the shooting?

A. No, sir.

Q. Were you armed?

A. No, sir.

Q. In what capacity were you present there?

A. Just curiosity, sight seer.

Q. Speak a little louder please. Did you hear the first shot?

A. Yes, I heard the first shot.

Q. Where did that shot come from?

A. The direction of the shot to the best of my hearing came out of the little building.

Q. How could you tell that?

A. By the sense of hearing.

Q. Was that before or after this colloquy between Macgee and the man standing in the door?

A. Well, just a minute before.

805 Q. A moment before, you mean what, the shot was first or the colloquy was first?

A. The shot was first, the single shot was first.

Q. Now tell us just what happened?

A. Well, the shot was fired, and immediately after there was a fusilage, a momentary fusilage.

Q. Was the shot fired before Macgee said, put down that gun, or after?

A. Well, it must have been right about the same time.

Q. Did you have occasion to go into the office afterwards?

A. I didn't go into the office. I stepped to the outside door.

Q. To the door, and how long after the shooting?

A. Well, I should say right after the shooting.

Q. Right after the shooting, what did you see in the office in the way of fire arms, if any?

A. I saw a pump gun and one pistol in the office, and then there was a single barrel shot gun laid off to the right toward the garage, on the ground.

Q. Did you recognize that pump gun?

A. Yes, sir.

Q. Have you seen it before?

A. Yes, sir.

Q. Whose gun was it?

A. Belonged to Lem Williams.

Q. How did you recognize that gun as being the gun belonging to Lem Williams?

806 A. I had used it a few times a year or so before the shooting, I was training some dogs at that time and I was with Mr. Williams, we went together on several occasions.

Q. You and Williams went hunting on several occasions?

A. Yes, sir, wasn't really hunting, just training dogs.

Q. Training dogs and you had that gun with you?

A. Yes, sir, and I had used it.

Q. And you are sure that is the gun you saw in there that day?

A. Positive.

Q. Had that gun been fired?

A. I didn't examine the gun, the gun showed evidence of having been struck by some buck shot.

Q. Where?

A. The gun that laid in the office, it showed evidence of being struck by some shot, buck shot.

Q. You say the gun showed signs of having been struck by some buck shot?

A. Yes, sir.

Q. What evidence did it give of being struck?

A. The stock was marked up from buck shot raking.

Q. Buck shot raking?

A. Yes, sir.

Q. At what angle was that?

A. I didn't take any particular notice.

Q. Was it the bottom of the stock?

A. It was the side, the side and the top like, I didn't pay any particular attention.

Q. Shots going over or raking along?

807 A. I can't say, I didn't pick the gun up.

Q. What were the general conditions in Bogalusa at that time and prior to this shooting in reference to peace and quietness?

A. Conditions were very tense.

Q. In what way?

A. Well, the peace of the town was generally upset through parties trying to upset the authorities, the police authorities of the city, such as having lights extinguished and threatening to cut off the water supply. Conditions all over the town were very tense.

Cross Examination.

By Mr. Higgins:

Q. Do you know who cut off the lights of your own knowledge?

A. I don't know.

Q. Do you know who cut off the water supply of your own knowledge?

A. I don't know.

Q. You can't testify then to what somebody else told you?

Mr. Dufour:

If your Honor please, he has not been doing it.

By Mr. Higgins:

Q. How long did you say you had been fire chief?

A. Ever since the Bogalusa Fire Department has been established a paid department, with the exception possibly of a little better than a year and the
808 time previous I served as volunteer fire chief, running over a period of possibly a couple of years, or may be more, I can't say specifically. The department is now a paid department and has been for a little better than eight years, and as I said before, with the exception of that time I was out, a little over a year, I had been chief all the time, and in addition to that I was volunteer chief.

Q. You were not chief at the time of this trouble?

A. No, sir.

Q. Who was the chief?

A. Mr. Pittman, or Mr. Taylor, one of the two, I think it was Mr. Taylor, Mr. Taylor didn't remain there possibly thirty days.

Q. Where did you see Sol Dacus that morning?

A. I saw him going into the little officer in Mr. Williams' yard.

Q. What time was that?

A. Just previous to the time I made the report to the chief of police.

Q. What time was it?

A. Sometime before dinner.

Q. Was it eight o'clock in the morning, ten o'clock in the morning, or twelve o'clock?

A. Well, I don't think it was either one of those specific hours you have named, it was just a short while before dinner, it may have been around eleven
809 or twelve o'clock, or thereabouts.

Q. Where were you at that time?

A. Right in front of Mr. Williams house.

Q. Walking or in an automobile?

A. I was in an automobile.

Q. Were you tracing Sol Dacus around?

A. I followed them from my place of business to Mr. Williams place where they lived, or where he lived, and from there I went on and made a report to the chief of police.

Q. Did you usually follow Sol Dacus around Bogalusa?

A. I did on that occasion.

Q. You were not a city policeman I understand?

A. I was not.

Q. Were these two men that you spoke of, Bouchillon and O'Rourke, with Sol Dacus all the time that you saw him?

A. I didn't know Bouchillon, I did know O'Rourke.

Q. Was O'Rourke with him all the time?

A. I don't know anything about if he was with him all the time.

Q. Well, all the time you saw him?

A. He was with him all the time I saw him, from the time he passed my place of business until the time he went into the little office in the yard, I was
810 behind right there, right to the rear of them, possibly a pace or two behind them.

Q. How far is your place of business from Williams' place?

A. My place is in the middle of the block, north of Mr. Williams' place, approximately in the middle.

Q. About how far would that be?

A. Well, a block is quite long in that section, but it is a block.

Q. How many feet would it be?

A. I never measured it.

Q. How many yards?

A. Measurements in feet and yards is equivalent. I never measured it, it is one block, there is one street between Mr. Williams' place and mine and Mr. Williams' place I think is the third property in the next block and there is quite an open space between the steam laundry and my place. I don't know what it is in feet and yards.

Q. Did you see any police officers at that time?

A. At which time?

Q. At the time you saw Dacus and O'Rourke go into Williams' place?

A. I did not.

Q. Are you sure of that?

A. (No answer).

Q. I say, you are sure of that?

A. I say I did not.

Q. Why did you follow Sol Dacus?

A. I didn't specifically follow him to say
811 I was going in the direction of the depot. I did follow him in the sense of the word until I saw him go in, and I knew there was a warrant out

for his arrest the day previous and I just made a report as a matter of form, being a citizen of that town and interested in the town, it was my duty to make that report.

Q. Did you know of any other warrants that were had for the arrest of anybody that day?

A. Not in particular.

Q. But you did know about Dacus?

A. I did.

Q. Who told you about Dacus?

A. I was at police headquarters when the instructions were given to some of the police officers to make the arrest of one Sol Dacus.

Q. Do you know what the charge was against him?

A. I didn't try to find out any charge.

Q. You say you were not armed?

A. No, sir, I was not.

Q. You followed him behind these cars of the special officers to the place of Williams on Columbia Road, is that right?

A. When I left the city hall I came home.

Q. Now, where did you go after you got to Williams' place? (Exhibiting map to witness.) Here is Columbia Road, and there is the two story
812 building, Lem Williams place. Here is Williams office and here is the garage and here is the residence?

A. I turned back this way (witness indicating) this is a vacant lot right here, and I just went right in here, right there (witness indicating).

Q. You were back here?

A. Yes, sir.

Q. How long did you stay there?

A. Well, I was there during the shooting.

Q. During the entire shooting?

A. Yes.

Q. You didn't see Tom Gaines come to that window?

A. Not that window, no, sir.

Q. You didn't see him come to any window?

A. The man who was pointed out as being Tom Gaines came out of this door and went in that direction.

Q. That was the last you saw of Tom Gaines?

A. No, sir, that was not the last, I saw him after he was dead.

Q. Did you see any other men in there?

A. Not that I remember, there were some men in there.

Q. Did you see any men over here with guns?

A. Not that I remember.

Q. Did you see any shooting take place from this spot over this way? (Counsel indicating).

A. No, sir.

Q. Did you stay over there during the entire shooting?

813 Mr. Dufour:

I don't think he said that, the witness said right there (Counsel indicating), and you are putting your finger right there (Counsel indicating).

By Mr. Higgins:

Q. Were you in Williams yard?

A. I was right at that line thereabouts.

Q. In other words, you were in Williams property?

A. Possibly I was, I don't know as I was, possibly I was on that property.

Q. Were you behind this porch?

A. I was right at the edge of this in here (witness indicating).

Q. You were right at the edge, somewhere along in here? (Counsel indicating.)

A. Yes, sir.

Q. How close were you to the building?

A. Within a few feet of that corner.

Q. Toward the back?

A. In toward the back, right where your finger was.

Q. I want to find out whether you were on Williams property?

A. I was on the rear end of the little building where your finger is now.

Q. That is on Williams property?

A. I can't say positively whether it was on Williams property or not, but it was where your finger is.

Q. How far inside of the fence there?

A. I didn't see any fence, I don't know
814 that there is a fence.

Q. Where did you find Tom Gaines' body when you went into the garage?

A. I didn't find the body, I just saw the body laying there.

Q. Where did you see him then?

A. I saw the body lying there.

Q. Where was it?

A. Just a little this way, somewhere off in behind there, to the rear of that little office, lying somewhere in there.

Q. About where in here (exhibiting map to witness) this is supposed to be the garage? (Counsel indicating).

A. Somewhere right down in here. (Witness indicating).

Q. That is a door?

A. I don't know if there is a door there or not.

Q. Was the body here, there, or there? (Counsel indicating.)

A. Somewhere right in here, I can't say positively, somewhere inside of this garage (witness indicating). I didn't go over to this body at all. I just looked in

there and looked at him, I didn't go inside that building at all.

Q. You went right in there after the shooting was over?

A. I didn't go in I say, I went to this opening and just looked in and saw the body lying there.

Q. You went in and you looked in from this direction, the door of the office toward the garage
815 and you saw the body there?

A. That is not the office.

Q. This is the office?

A. This is the front of the office and that is the garage there.

Q. If you want to put the office there, alright, but you were looking over that way? (Counsel indicating).

A. This is the office here and the body was lying inside this place. (Witness indicating).

Q. The body was right here, (Counsel indicating) now is that correct?

A. I don't know if this—yes, I am right.

Q. Was it over here? (Counsel indicating).

A. Sure.

Q. Was it close to this window?

A. No, it was not.

Q. Did you know what was down in this place?

A. No, sir, I didn't look at it.

Q. You say you could see the office door of this office building?

A. Sir?

Q. Did you say you were in the position where you could see the office door of the office building?

A. Yes, I was in a position where I could see the office door to this building.

Q. You saw a man come out of the office door with a shot gun in his hand, is that correct?

A. He was stepping right outside of the
816 door, just made a step right outside of the door, as I came to the corner of the building.

Q. What did Wiley Macgee say to him?

A. I don't know what all he said, I can tell you what I heard.

Q. That is what I want?

A. I just heard him say, make a remark very distinctly, put down that gun, as if he had repeated the remark.

Q. Now he was talking to somebody that had a shot gun, is that correct?

A. I don't know whether he was or not.

Q. Well, did the man that had the shot gun put it down?

A. I can't say that.

Q. Did you look at him?

A. No, I didn't look to see whether he put it down or not.

Q. Were you looking at the office door when Lem Williams came to the office door?

A. I don't know if I was looking directly at that door when he came to the door, but I saw him about that time when he appeared at the door and my eyes must have been right on that door at that specific moment. He appeared at the door you might say in a moment.

Q. Did you hear any conversation between Williams and Macgee?

817 A. I did not.

Q. How far were you standing from the door of the office building?

A. I don't know what the distance is.

Q. Well you can estimate, you were there?

A. I don't know the width of the lot, I have not taken any measurements.

Q. Were you five, ten, fifteen, twenty, or thirty feet, or what was it?

A. I can't say, I didn't measure it, I don't know, I was at the end of the house as I said, I don't know what the distance is or anything, no specific measurements.

Q. You didn't hear any conversation?

A. I didn't hear anything, only the one thing, put down that gun.

Q. That is all you heard?

A. Yes.

Q. Now, can't you tell us approximately how far you were from the office door?

A. You tell me how far it is from the office door to the edge of the lot and I can tell you.

Q. You are a fire chief, are you not?

A. I am.

Q. You know about the length of the hose and things like that don't you, if you have to couple it to get to these fires?

A. Yes, sir, I know the length of the hose.

Q. You have some idea of distance, how
818 far were you from here to this wall, (Counsel indicating) you know what the length of the hose is?

A. The hose we use is about fifty feet lengths, whenever the hose comes out it is fifty feet long, we know that, there is no necessity for our measuring it.

Q. Alright, were you fifty feet away?

A. I don't know, I didn't measure the distance.

Q. Can you tell how far it is from here to that wall? (Counsel indicating) Can you estimate it?

A. You can make your own estimate of the measurements, I didn't measure it, I can show you my position on the map where I was at.

Q. Would you say it was a full length of hose, or how much?

A. I didn't lay any hose down there.

By the Court:

Q. You can use some estimate?

A. If he would tell me the lot, yes. I don't know what the width of the property is.

By Mr. Higgins:

Q. I didn't ask you to give any exact measurements in feet and inches, I asked you approximately?

A. Bring me that map?

Q. (Counsel hands map to witness.) I am not trying to trip you up. Have you any idea?

A. How wide is the house?

Q. Yes.

819 A. I might say it was somewhere around forty feet.

Q. Now, you say according to your sense of hearing, the first shot came out of the door?

A. Yes, sir.

Q. You didn't see any gun flash did you?

A. It came out of the little building, I don't know whether it came out of the door, it came out of that little office building.

Q. Could you see the men up in this part of the yard at the time you were standing over here, if there were any men over on this part of the yard, could you see them if you were standing here?

A. No, sir, I wasn't in a position to see that part of it.

Q. So if a gun was fired up here (Counsel indicating) you couldn't tell?

A. Yes, sir, I could have told.

Q. How could you?

A. By my sense of hearing, it would have told me the direction of that shot.

Q. You never saw the flash of the gun at all, did you?

A. Sir?

Q. You never saw any flash of the gun to show you that was the first shot was fired?

A. I didn't see any flash, no, sir.

Q. Now, after the shooting was over you went and looked in the building?

A. I didn't go in the building, I just went
820 to the door.

Q. You went in the door and looked into the building?

A. I went to the front door and looked in, yes, sir.

Q. You didn't go inside?

A. No, sir.

Q. How long after the shooting was it before you went in?

A. Right after the shooting was over I walked over there and looked in.

Q. How long, about?

A. Well, just a few minutes.

Q. Did any of the officers prevent you from going in?

A. No one prevented me from going in, I went in.

Q. No one attempted to stop you?

A. No, sir.

Q. You say Williams had had that pump gun for a year before, is that right?

A. I don't know the specific time, I know that he had that gun when we were shooting birds.

Q. He had used it for hunting purposes, is that correct?

A. He had used it and he was with me at the time, he shot some birds.

Q. What special mark would indicate it from any other pump gun?

A. What special mark?

Q. Yes.

A. Small bore pump gun.

Q. Small bore pump gun?

A. Yes.

Q. Are not they uniform?

A. No, there is different size bores, and this was a small bore.

821 Q. Well, if some one else had a small bore gun, could you tell it from the gun that Williams had?

A. Why yes, if I had handled it.

Q. What marks on it would discriminate it from any other gun?

A. Well, the knowledge it was a twenty gauge Winchester pump gun. I had had it in my hands and I readily recognized it.

Q. By what mark of identification?

A. Just by looking at the gun I could identify it, I knew the gun when I saw it.

Q. The only mark of identification then, is it was a twenty gauge pump gun, is that correct?

A. That was the size of the bore and that was the mark of the gun.

Q. That is the reason why you say it is the same gun?

A. Well, there were marks on it, I knew the stock of the gun, there was a grain mark on the stock of the gun, you could tell that if you handled the gun once.

Q. I understand the stock of the gun was shot, broken?

A. When I saw it last, it had evidences of being hit with buck shot.

Q. With buck shot?

A. Yes, heavy shot.

Q. Mr. Sherman, why did you go to the scene of the shooting?

822 A. Just for curiosity, I suppose.

Q. That is the only reason you can give?

A. That is the only reason.

Q. And your curiosity led you to take an automobile and follow these automobiles down Columbia Road until you got to Williams place and get out of the automobile and come down the said lot and finally locate yourself back here (Counsel indicating), is that correct?

A. It was on my way home, that particular route that you describe, from the city hall it brings me within a few steps from my home and I followed the crowd, as you said, and I went to that particular position.

Q. You stayed there until all the shooting was over?

A. Yes, sir.

Q. When that shooting was over, you went in and examined the premises?

A. I looked in the door.

Q. And you were not a special officer of the city of Bogalusa?

A. I am not.

Q. And what was your occupation at that time?

A. I was in the hat business.

Q. Who was attending to your place of business while you were out?

A. I had a man working for me and my wife

823 was there and a couple of daughters.

Q. You say that you were a good friend of Mr. Williams?

A. I didn't have anything against him.

Q. Were you friendly to him?

A. Well, I spoke to him when I saw him, I was not carrying around with him particularly, I spoke to him like I would to anybody else.

Q. As a matter of fact, didn't you have trouble with him yourself?

A. How is that?

Q. As a matter of fact, didn't you have trouble with Lem Williams?

A. No, I didn't have any trouble.

Q. Didn't you have a fight with him?

A. He struck me once, yes.

Q. How long was that before the shooting?

A. Well, it was a long time before that, that was while I was chief of the fire department and he was working for me and he was caught up in stealing, and I discharged him and he hit me.

Q. Isn't it a fact that you accused him of stealing and he whipped you with his fist?

A. It is not a fact that I accused him, I knew he stole the stuff.

Q. Was he ever charged with it and convicted?

A. I don't know whether he was charged with it or not.

824 Q. Isn't that the reason he gave you a beating?

A. Not that I know of, he may have struck me for being discharged from the fire department.

Q. As a matter of fact, you didn't have any friendly feeling toward him, did you?

A. I considered him just like any one else. I spoke to him when I met him, I had no enmity toward him, I have no particular love for him either, I just pass him as anyone else.

Q. Isn't that the reason why you went to his place at this time when you thought there was going to be trouble?

A. No, it had no bearing on the situation.

Q. That was the source of your curiosity?

A. Absolutely.

Q. That was not the reason you reported Sol Dacus was in his place that day?

A. Absolutely not.

Re-Direct Examination.

By Mr. Dufour:

Q. When was this difficulty between you and Williams, how long ago?

A. I don't know the particular time, it was a long time before that. There was not much difficulty between me and Mr. Williams, Mr. Williams just struck me without ruining me, that was all there was to it.

Q. How many years was it before this accident?

A. Well, it was some little time, I don't know the exact date, a year before, possibly a year.

825 Q. Was it before or after you had been hunting with him?

A. It was while he was in the department.

Q. While he was in the department?

A. Yes.

Q. Was that before or after the occasion you spoke of?

A. It was possibly along about the same time.

By Mr. Higgins:

Q. How large a man are you?

A. You mean what do I weigh?

Q. Yes.

A. I think I weigh, 176, 178, something like that.
Q. Did you weigh that much in 1919?
A. I think I did, about the same.
Q. And how tall are you, about?
A. I am a shade over six feet, six feet and a fraction.

At this point Court was adjourned until the following morning, Wednesday, April 29, 1925.

Wednesday, April 29, 1925.

All parties at interest being present, the taking of testimony was resumed.

DR. J. M. BRUMFIELD, witness, being duly sworn and examined on behalf of defendants, testified as follows:

826 Direct Examination.

By Mr. Johnson:
Q. What is your name?
A. Dr. J. M. Brumfield.
Q. Doctor, you live in Bogalusa?
A. Yes, sir.
Q. What is your business, Doctor, or profession?
A. Dentist.
Q. How long have you been living in Bogalusa?
A. About fifteen years.
Q. What is your age?
A. Forty-one.
Q. Prior to that time, where did you live?
A. In Franklinton, La.
Q. You are a native born resident of Washington Parish?

A. Yes.

Q. In November, 1919, you were living in Bogalusa?

A. Yes.

Q. Were you one of the special officers in the city of Bogalusa at that time?

A. Yes.

Q. Did you know Lem Williams?

A. Yes.

Q. Do you recall the date on which he was killed?

A. Yes.

Q. State whether or not you answered the call to the special officers on that day?

A. Yes, I did.

Q. What was that call?

A. It was a call to assemble at the city hall.

Q. What was the call?

A. The siren whistle.

Q. And you assembled at the city hall?

A. Yes, sir.

Q. What time of day was it that you did that?

A. About noon about, long about noon, possibly between 12 and 1 o'clock.

827 Q. Were you ever connected in any way with the Great Southern Lumber Company?

A. No, sir.

Q. Whom did you find at the city hall when you reached there in answer to that call?

A. There was I suppose twelve or fifteen special police there.

Q. When you say special police, you mean policemen who were assigned regular service, or do you mean special officers like yourself?

A. There were some regular officers there and there were some doing special service.

Q. Were there other citizens there like yourself who had answered that call?

A. There were.

Q. How many would you say were there when you assembled?

A. I hardly know, it has been some little while ago, possibly twelve or fifteen, something like that, may be more, I don't remember, it is quite a while ago.

Q. Were any of the officers of the city government there, of the police department?

A. Yes, sir.

Q. Who?

A. Mr. Lindsley was there.

Q. Who else?

A. I think the chief of police was there.

Q. Who is the chief of police?

A. Chief Abner Macgee, it has been sometime ago and it is a little bit hard to remember just who
828 there were.

Q. Do you remember whether Wiley Macgee was there?

A. Yes, he was there.

Q. What instructions, if any, were given you by the police department—authorities?

A. We were instructed to meet to help them to execute a warrant that had been sworn out for Sol Dacus and O'Rourke and Bouchillon, for disturbing the peace, something like that, dangerous and suspicious characters, and we were to assist in executing those warrants.

Q. Do you know to whom the warrants were delivered?

A. No, I believe they were delivered to Wiley Macgee.

Q. State whether or not you had any instructions relative to where to go to execute those warrants?

A. Yes, we had instructions where to go.

Q. Where?

A. To Lem Williams garage, or office, or place of business.

Q. Did you receive instructions as to who was going to be found at the garage?

A. Well, we were going to arrest the man that the warrant was for.

Q. Who accompanied you to that place?

A. Well, there were several that set out from the city hall, Wiley Macgee and Jules Le Blanc, and Hadley, and I don't know—it is hard to recall just
829 who were there, there were so many.

Q. Do you recall any of the others?

A. I believe Levert was there, Louis Levert.

Q. How did this body of men go from the city hall?

A. In automobiles.

Q. With whom did you go, do you recall?

A. No, I don't, I don't remember, whose car I was in.

Q. Did you have a car of your own?

A. Yes, sir, possibly I was driving my own car, I don't remember. I believe I was though, as I say, it has been quite a little while ago, but I believe I drove my own car, but I don't know who was with me.

Q. Well Doctor, what took place when you went down to this place?

A. When we got to the garage?

Q. Yes.

A. Well, when we drove up we got out of the cars, and looked toward the building in which these men were supposed to be that we had a warrant for, and we went up to the end of the main entrance from Columbia Street into the garage and some one around like that—there is a large opening just to the right of Williams

house on the side of the garage like—and some went in front with Macgee, in the nain yard.

Q. Do you recall who went into the main yard?

A. I recall Wiey Macgee, Hadley, and
830 Wilcox, and Jules LeBlanc.

Q. How did you approach?

A. To the side just to the right in the alley like.

Q. Then state what took place?

A. After we arrived, when we got to the place, Lem came to the door of his office and asked something—I don't remember—I couldn't hear plainly what it was—and when he came to the door he had a gun, he had a revolver in his hand and I don't know—just kind of placed at his side like that (witness indicating) and Wiley Macgee said to him, put that gun down, put that gun down Lem, we don't want any trouble, we didn't come here for any trouble with you, we came to arrest these men peaceably and we didn't come here for any trouble, and he kept holding his gun there, and about that time there was a shot fired from the inside of the building and then a whole fusilage was fired.

Q. Where were you at this time?

A. I was standing just back and around Lem's house, between that and the garage.

Q. Do you know if anyboly was near you?

A. I don't know, no I dont, there were some men behind me, but I don't know who they were.

Q. Who was in front of you?

831 A. In front, I was in the yard then, the others were in the yrd, in the main yard you understand.

Q. How far were you from Wiley Macgee?

A. I suppose fifteen or wenty feet, I don't know just how far it is, I imagine nat, judging approximately.

Q. How far were you from Lem Williams?

A. Well, just a little bit further, because he was a little further around like that (witness indicating) this position to the right, these men were in here (witness indicating), and Wiley was a little further this way (witness indicating).

Q. How far were you from the garage, the corner of the garage?

A. Oh, not many feet, five or six feet, something like that, I don't know just what the measurements were or what the distance is.

Q. Now where were you, or what time did you see Williams in the door?

A. When we walked up.

Q. Walked up from where?

A. Walked up from the street after we left our car and went into the enclosure.

Q. Was there anything to prevent you from seeing Williams in his office all the time you were approaching?

A. Yes.

Q. What?

832 A. All the time Lem Williams office was in front of us, but his office was in plain view from where I stood then.

Q. Now, do I understand that after you had passed the house, then you came in view of the office again?

A. Came in view of the office again.

Q. Now, just tell us when Williams came to the door of the office?

A. I don't know, just about the time we walked up, just about that time he came to the door.

Q. You say a shot came from the office, how do you know that?

A. Well, I could tell from the report where it was from, the report had a muffled sound, and I could

tell from the distance and direction of it that it came from the inside.

Q. Could you state then there was a general fusilage of shot from both sides—

A. Followed, yes, sir.

Q. Doctor, did you go to that scene for the purpose of taking part in killing anybody?

A. Absolutely not.

Q. What was the purpose of your going?

A. Peaceably to execute the warrant.

Q. State whether or not when that shooting took place you could tell what men shot any other men from either side?

833 A. (No answer).

Q. What is your answer, Doctor?

A. No, I couldn't tell.

Q. Doctor, did you ever answer the call of this fire whistle on any other occasion?

A. Yes, sir, once previous.

Q. How long before this?

A. I don't remember, possibly a week or ten days.

Q. Where did you go?

A. We went to the city hall.

Q. Were there other special officers assembled at that time?

A. Yes, sir.

Q. What was the trouble on that occasion?

A. We had a report that there was going to be a jail delivery, some men in jail making a jail delivery—trying to break out of jail, making a jail delivery and we went there to protect the jail, protect the prisoners.

Q. When the special officers arrived, did the threatened assault on the jail materialize?

A. No, sir, it did not.

Q. The crowd dispersed?

A. Yes, and when the crowd dispersed, we went back home.

Q. At the time of this killing and some time previous, Doctor, what were the general conditions in Bogalusa?

834 A. Well, the general conditions for peace was upset, general upset condition, the people's nerves seemed to be on edge, and there was a general upset of feeling all over town and high tension.

Q. Were you acquainted with Lem Williams personally?

A. Yes.

Q. How long had you known him?

A. Known him a good many years, possibly eight or ten years.

Q. Do you know what his general reputation was for peace and quietness?

A. It was not very good.

Cross Examination:

By Mr. Higgins:

Q. Doctor, have you ever been in the employ of the Great Southern Lumber Company?

A. No, sir.

Q. Or any of your relatives?

A. No, sir, none at all.

Q. You are not related to any of the officials of the Great Southern Lumber Company?

A. No, sir, not at all.

Q. You have no official relations in respect to it?

A. No, sir.

Q. From whom do you rent your office in Bogalusa?

A. The Great Southern Lumber Company.

Q. What rent do you pay?

835 A. $40.00 a month.

Q. How much space have you got?

A. I have two offices.

Q. From whom do you rent that office, I mean who represents the company?

A. The rental agent, I don't know. whoever the rental agent is. I believe Webb, Paul Webb is the rental agent, L. L. Webb is the rental agent.

Mr. Johnson:

Q. Speak louder and more plainly, the Jury can't hear you.

A. L. E. Webb is the rental agent, I think he is the one that handles that business now.

By Mr. Higigns:

Q. How long have you practiced Dentistry?

A. I graduated from Tulane in 1910. I have been in Bogalusa ever since.

Q. Practiced over in Bogalusa ever since?

A. Yes, sir.

Q. Where were you at the time you heard this whistle blow?

A. Home.

Q. How far were you from the city hall?

A. Well, about a mile, a mile and a half I guess.

Q. You walked to the city hall, or you rode?

A. Rode.

Q. You rode in an automobile?

A. Yes.

Q. Did you have a gun that day?

A. Yes.

Q. What kind?

A. Shot gun.

Q. What was it loaded with?

836 A. Buch shot, I think.

Q. Where did you get that gun from?

A. It is my gun, my own gun.

Q. Will you please talk louder, Doctor, what was that?

A. My own gun, I bought it.

Q. You had it at your house at that time?

A. Yes, sir.

Q. Did you see any guns at the city hall that day?

A. No, sir.

Q. Did you see any police guns at the city hall that day?

A. No, possibly they had some, I don't recall seeing any.

Q. Now, did these men come one at a time, or did they come in a bunch?

A. Who?

Q. The special officers.

A. To the city hall?

Q. Yes?

A. They came one at a time, two or three together, something like that.

Q. Now, I understand they had three regular police officers over there?

A. One.

Q. Regular police officers of the city and the chief and some special officers, were on pay and some volunteers police officers?

A. Yes.

Q. Under which classification were you?

A. Volunteer officer.

Q. You were not under pay at that time?

A. No, sir.

Q. You got no pay for your services?
A. No, sir.

Mr. Dufour:
A little louder please, we can't hear you
837 over here.

A. No, no pay, volunteer.

By Mr. Higgins:
Q. Did the other officers who responded to the call have guns that day, the special officers?
A. I think so, yes, sir.
Q. What kind of guns?
A. I think most of them had shot guns.
Q. Do you know what they were loaded with?
A. No, sir.
Q. Did you have a warrant for the arrest of Lem Williams?
A. No, sir.
Q. Did you have a search warrant to go on his property?
A. No, sir, not that I know of.
Q. You say you were instructed by Mr. Lindsley to go to Lem Williams' garage?
A. Yes.
Q. Did O'Rourke live at Lem Williams' place?
A. I don't know.
Q. Did Bouchillon live at Lem Williams' place?
A. I don't know.
Q. Did Sol Dacus live at Lem Williams' Place?
A. I don't know.
Q. You don't know that?
A. No, sir.
Q. You don't know where Sol Dacus lived?

A. He lived some place down in the negro quarters.

Q. Don't you know as a matter of fact none of these men lived in Lem Williams' home?

A. I don't know whether they did or did not.

838 Q. Well now, what size building was Lem Williams' residence?

A. Small, two or three room place.

Q. Williams lived there with his wife and child?

A. I think so.

Q. Do you know whether or not Bouchillon was a man of family?

A. No, sir, I don't.

Q. Do know whether Tom Gaines was a man of family?

A. Yes, sir.

Q. How many children did he have?

A. I don't know, two or three I think.

Q. Do you know whether O'Rourke was a man of family?

A. No, sir.

Q. How long had you known O'Rourke?

A. I just saw him around town for a little while, I don't know just how long.

Q. How long had you known Bouchillon?

A. I don't know.

Q. Hoy long had you known Gaines?

A. I had known Gaines quite a number of years.

Q. You knew as a matter of fact he didn't live with Williams?

A. Gaines, no, he didn't live with Williams, he lived down in the south part of the town, but O'Rourke and Bouchillon I don't know.

Q. What other cars were used that day?

A. I don't know.

839 Q. Had these cars been used on previous occasions when the whistle was blown?

A. I don't know whether they were the same cars or not.

Q. Now, as you came to Williams' place, were you with Wiley Macgee?

A. Yes, sir.

Q. How far were you from him at the time you went to the gate?

A. Well, I don't know, just a few feet possibly at that time.

Q. How far were you from Jules LeBlanc at the time you entered the gate?

A. Well, just together in the crowd, possibly four, five six, ten feet, something like that.

Q. In which direction were you looking at the time you went in the gate?

A. Toward the garage.

Q. Did you see anybody standing in Williams' yard?

A. No, sir.

Q. Did you see anybody in his office door at that time?

A. When we went into the office, yes, sir, when we came up there I did, I saw Lem in the office door.

Q. Is that the only man you saw?

A. Yes, sir, at that time.

Q. Well previous to that time, is that the only man you saw?

A. No, I saw Tom Gaines previous to that time.

Q. Did you see anybody else besides Tom Gaines?

A. No, I don't recall now, but I didn't out
840 side of that house, no. At that time I was in the street, when we first got there I went into the building.

Q. It was in the street when you first saw him? Tom Gaines?

A. I was standing out at the gate and when I came there he ran back into the garage.

Q. You can't be mistaken about that?

A. No, sir.

Q. This represents Columbia Road (Counsel exhibiting map) this represents the two story building next to the property of Lem Williams, this represents the big gate to his property, this is his office, this is the office door, this is the garage, this is the garage door, this is the window in the garage, this is Lem Williams' residence?

A. Yes, sir.

Q. Now, from which gate did you go?

A. Here (Witness indicating.)

Q. And from there where did you go?

A. Down this way.

Q. And you went around there?

A. We anchored here and a few of us, I don't know who, went around, the balance of us went here and Wiley Macgee and a few others went through here and I went around this way right in here. That is where I was in view of this building and this door where I was standing right in here. From here to here, approximately that distance. (Witness indicating.)

841 Q. You were looging [looking] in this office door?

A. Yes.

Q. And he was the only man you saw?

A. I didn't see him when we cane [came] in, he was not when we got up there, when I got in front of the office door, that is when I saw him.

Q. Saw Williams?

A. Yes.

Q. Now when you came to the gate that led into this yard here, did you see anybody at all at that time?

A. I don't recollect that I did.

Q. You saw Gaines standing out here when you first came in?

A. When the car stopped, he ran into the garage or building somewhere.

Q. You don't know where?

A. No, some kind of opening there.

Q. Was that the last you saw of Gaines until after the shooting?

A. The last I saw of him, the only time I saw him.

Q. When did you see Gaines?

A. The only time I saw Gaines at all, when I came in the yard.

Q. And he ran inside, that was the last you saw of him until after the shooting was all over?

A. Yes, you see where my position was (witness indicating) a short distance you understand from here.

Q. Do you know where they found the body
842 of Tom Gaines after the shooting?

A. It was in the garage someplace, I believe along in here somewhere.

Q. Do you know whether or not there was any windows in the end of this building?

A. I know there was some opening there, I don't know what about the back.

Q. Now, you say some men come over here between Williams' property and the two story building?

A. No, no, I didn't say that.

Q. You didn't say that?

A. No.

Q. Do you know of your own knowledge whether or not anybody went down through that?

A. Where?

Q. On that side of Williams property?

A. By this two story building? No, I don't think there was any way to get in there, I think this building is the line of the fence of the yard as well as I remember.

I don't think there was any opening in the alley, between them, as well as I can remember the building is the line of fence.

Q. Do you know if there were any men back here?

A. There was an alley back in this direction to the rear.

Q. Do you know if any of the special officers went back in that yard?

A. No.

Q. At the time you went in the back yard, where were you standing? (Counsel exhibiting map to wit-
843 ness.)

A. About here, just around the corner of this building, in this opening here, in here somewhere.

Q. Now, who was with you at the time you were there?

A. I don't remember, there were some men came in there, but I don't remember who it was.

Q. You don't remember the names of any of them?

A. No, I do not.

Q. Were they special officers?

A. Special officers, I don't remember, I don't recall the names, most of them were down in here (witness indicating).

Q. Do you know whether they were all special officers or not?

A. No, I don't know, there were several men here and several more there. In the position where I was I could see the men come up in that direction.

Q. Now, I understood you couldn't hear exactly what Williams said to Macgee at the time this conversation took place at the door?

A. No.

Q. In what position did you say Williams had this pistol that he had in his hands?

A. In his right hand.

Q. Holding it down toward the ground?

A. No, he had it in some position like this (witness indicating) standing up.

Q. Now, this office door he was standing
844 in, how far is that from the ground?

A. About a foot maybe.

Q. Just one step, is it not?

A. I think one step, it is not very high.

Q. And this office building was a wooden frame building without any weather boarding on it?

A. I think it is what they call a box building, planks up and down.

Q. Now, what was the command that Macgee gave to Williams?

A. He told him to drop the gun, drop the gun, Lem, we didn't come here to hurt anyone, we only came after the negro, drop the gun.

Q. Was he talking to Williams or was he talking to Tom Gaines?

A. He was talking to Williams.

Q. Sure about that?

A. Yes, sir.

Q. At the time that Williams came to the door with a gun in his hand, did you see Lem Williams there?

A. No, sir.

Q. Did Lem Williams put the gun down?

A. No, sir.

Q. Did you see the flash of the first shot that was fired?

A. Yes, sir.

Q. You saw the actual flash?

A. No, I didn't see the fire, the flash, in the day time you wouldn't see the fire from the gun,
845 just hear report.

Q. And your idea as to where the shot came from was due to your judgment of sound?

A. Yes, and knowledge of the course of the gun.
Q. Now, you say you had a shot gun?
A. Yes.
Q. Did you fire that gun?

Mr. Dart:
We object your Honor, and ask that the witness be instructed as to his rights.

The Court:
The law is, if any question is asked, the answer to which would intend to incriminate you, you have the right to decline to answer.

A. I decline to answer.
Q. You say the first time you answered the call of this whistle at the time of this attempted jail delivery the crowd assembled there and went on about their business when the special officers arrived?
A. Yes, there were no shots fired or demonstration after we arrived at the city hall and the jail.
Q. Was that at the city hall?
A. Yes, no other demonstration.
Q. Doctor, are you friendly with Jules Cassidy?
A. Who?
Q. Jules Cassidy— Mr. Jack Cassidy?
846 A. Yes.
Q. Friendly with Mr. E. R. Cassidy?
A. Yes.
Q. Friendly with Mr. Sullivan?
A. Yes.
Q. These men patients of yours?
A. Well no, I can't say that they are, you mean I have been doing work for them, no, sir.
Q. Well, 1919, or around there?
A. No, sir.

Q. They were patients of yours at that time?

A. No, sir, now I believe I did do some work for Mr. E. R. Cassidy along about that time, but not for the others.

Q. What kind of window was it in the end of the garage near where you were standing?

A. I think it is a swinging window, a push window.

Q. Is it glass or wood?

A. Glass I think, I think there is glass work there, I don't remember exactly what kind, but it is a glass window, I am sure.

Q. Do you recall at the time you were standing there whether you saw a man named Sherman?

A. Sherman, yes— Sherman— Sherman was there I think, I don't recall him there anywhere near me, no.

Q. Now you say, Doctor you went on a peaceful mission?

A. Yes, sir.

Q. You didn't expect any trouble?

A. None at all, no, sir.

Q. Louder, please.

847 A. I don't anticipate any, didn't go there for any trouble just peaceful, to execute the warrant we had.

By Mr. Johnson:

Q. Doctor, you say Mr. Sullivan and Mr. Jack Cassidy were not patients of yours? Do you know what dentists of Bogalusa they did patronize?

A. No, sir, I do not.

Q. Are you friendly with most of the citizens of Bogalusa?

A. Yes, sir.

H. N. SIMMONS: witness, being duly sworn and examined on behalf of Defendants, testified as follows:

Direct Examination:

By Mr. Johnson:

Q. What is your name?

A. H. N. Simmons.

Q. What is your age?

A. 57.

Q. Where do you live?

A. Jackson, Miss.

Q. How long have you been living in Jackson?

A. Two years last January.

Q. What is your occupation in Jackson?

A. Carpenter, contractor in a small way.

Q. Where did you live prior to going to Mississippi?

A. Washington Parish, La.

Q. How long had you lived in Washington
848 Parish?

A. All my life until I left to go to Jackson.

Q. What official position, if any, have you ever held in Washington Parish?

A. The first official position I ever had was Deputy Sheriff under Sherifff Buckhalter for a period of five years.

Q. What next?

A. In 1900 I was elected Sheriff of the Parish for one ferm.

Q. Did you hold any position after that?

A. From 1900 to 1912, from 1912 to 1916 I was Chief deputy sheriff under my brother, T. J. Simmons at Bogalusa, La.

Q. Was T. J. Simmons sheriff at that time?

A. Yes, sir, he was sheriff.

Q. At the time you lived in Bogalusa?

A. Yes.

Q. Were you living there in 1919?

A. In Bogalusa, yes.

Q. Did you reside in Bogalusa continuously from 1916 to 1919?

A. Not continuously. I was down here a few months and came back, very few months.

Q. Mr. Simmons, did you know Lem Williams?

A. Yes, I knew Mr. Lem Williams.

Q. Do you recall when he was killed?

A. Yes.

Q. What date was it, do you know?

849 A. It was the 22nd day of November, 1919.

Q. State if you had any occasion to go to his place on the date he was killed?

A. Yes, sir, I was there.

Q. Did you have any occasion to visit his place at any other time.

A. Yes, I was there continuously, four five or six weeks before that.

Q. Why were you there?

A. I was assisting him in the labor on his house.

Q. When did you go to Mr. Williams' place that date, the day he was killed?

A. 7:30 or 8:00 o'clock in the morning.

Q. Who did you find there?

A. Mr. Williams, his wife, and Sol Dacus.

Q. Where was Sol Dacus?

A. Mr. Williams' office.

Q. State whether or not Williams said anything to you while Sol Dacus was there at that time?

A. He said the mob was after him.

Q. Had you heard anything about any one being after Sol Dacus?

A. One of y sons told me the night before somebody was after him, the night before, was at his house the night before.

850 Mr. Higgins:

I ask that the answer be stricken out as hearsay.

The Court:

I will strike it out and ask the Jury to disregard it.

By Mr. Johnson:

Q. Mr. Simmons, did you know that any trouble had occurred the night before?

A. Only by hearsay.

Q. How long did you remain at Williams' place the first time you visited him that morning?

A. A few minutes, thirty minutes perhaps, I don't know exactly.

Q. Where did you go then?

A. Went over to the north side, over to the depot, north of Bogalusa creek.

Q. Will you state that again please?

A. Mr. Williams sent me over there to see if I could learn by what authority the train was stopped at Fourth Street crossing the night before.

Q. Did you visit Mr. Williams' office any other time that day?

A. Yes, I came back there about five or ten minutes to 12.

Q. Who did you find there at that time?

A. I found Mr. Williams, I found Mr. Bouchillon, Mr. O'Rourke, Mr. Spears, Tom Gaines, Sol

851 Dacus— oh, I can't recall, all the men that were there.

Q. How long did you remain there at this time?

A. Just a few minutes, very few.

Q. What was said when you reached the office at that time, if anything?

A. Mr. Williams told me when I got there that they were coming for Sol, I asked him who, and he said the mob, the strong arm bunch.

Q. The strong arm bunch?

A. And I asked him why and he said he had sent Sol home with Mr. O'Rourke and Mr. Bouchillon to guard him and they came back to Colorado Street and there was quite a little excitement and commotion and they were coming after him and I told him he should not have done that, it was just like flashing a red flag in a bull's face to send that negro up the street with armed men, that things were pretty shaky to me that day.

Q. What was then said about Dacus, if anything?

A. He told me they were going to run Sol Dacus away from here, make him leave, I said, that was just as I thought and I told Sol to get away and I pointed out the swamp to him and I asked him if he thought he could make that swamp while the police were coming and he said he thought he could, and I told him to beat it and he did, and then I started to go home
852 for lunch.

Q. Was anything said to you about returning?

A. Told me to hurry back, might be some trouble.

Q. Alright did you go back or not?

A. Yes, I came back.

Q. What time was it when you came back to the office?

A. I can't tell exactly, about fifteen or twenty minutes after 12, the best I can recollect.

Q. Who did you find there?

A. Pretty much the same bunch that I mentioned before.

Q. Who else did you see there besides those you named, can you recollect anybody else?

A. After dinner, I remember Mr. Renfrow was there.

Q. Mr. Simmons, Mr. Leonard Trim testified he was there at the same time you were there, is that true or not?

Mr. Higgins:

I object to that as heading [leading].

The Court:

I think he can ask him that.

A. Mr. Trim was there before noon, just before I went off I didn't see him after dinner.

Q. Now, what was said, or what happened when you returned to the office after lunch?

A. When I went back there the usual crowd was there that was usually there, those fellows I mentioned first, and we were standing around, sitting around talking—

853 Q. Speak louder please, the Jury wants to hear.

A. (Witness continuing) —my lungs are a little weak— and I hadn't been there many minutes when the fire alarm whistle blew.

Q. What was said at that time by Mr. Williams?

A. Well, Mr. Williams told us to get ready, they were coming, to get ready for them, they were coming.

Q. What did any of the other members of the crowd say?

A. I remember what Mr. Bouchillon said, he was the only man I remember hearing say anything.

Q. Well, what did he say?

A. He said that he was going to get one or two of them before they got him.

Q. Did he make any preparation—

A. He got in some pieces of planks— seemed to be cut off a dry goods box— and barricaded the window toward the south end of the office

Q. Do you know what kind of gun he had?

A. He had some kind of pump gun.

Q. Were there any other guns— state whether or not any other members of the body of men there had guns?

A. Mr. O'Rourke had a gun.

Q. What kind?

A. Looked like a double barrel shot gun, Mr. Tom Gaines had a gun.

Q. You say Jim Williams had a gun?

854 A. A rifle, he went and got his gun after the fire alarm started, he went out of the window of the office, was gone for a few minutes and came back again with a rifle, and Lem Williams had two pistols.

Q. Were you armed?

A. No, sir, I had no gun.

Q. What was stated to you, or what was stated between you and Mr. Williams as to any plan of action should any approach be made on that position?

A. Mr. Williams told me that he would guard the front door, Mr. O'Rourke would use his judgment as to where he would be, Mr. Bouchillon was going to use that window that was barricaded and they was going to give me two pistols and I was to go across to Williams' house.

Q. Now, how long did you stay there after the whistle blew?

A. I stayed there about five minutes, I can't tell exactly, about five minutes.

Q. Were you there when any approach was made by the special officers?

A. No, sir.

Q. Where were you?

A. I had gone home.

Q. Why did you go home?

A. Well, my being an officer for a number of years I didn't want to put up a fight against a bunch of officers and for that reason, and outside of that my wife became alarmed and telephoned me to go home.

855 Q. Do you know why she became alarmed?

A. Yes, sir, that whistle alarmed her.

Q. Had you related to your wife anything about what you had seen that morning?

A. Yes, I told her things looked awful shaky, looked dangerous to me.

Q. You stated you did not feel like being up to resist officers, did you or Mr. Williams know that there were any special officers, or special— citizens—

Mr. Higgins:

Now, your Honor if that is not a leading question, I don't know one that is.

The Court:

I think he can ask him a question of that sort.

By Mr. Johnson:

Q. State whether or not you knew that?

A. We had sent somebody to the clerk's office at Franklinton to get a line on the special deputies that were there.

Q. Do you know anything about who were special officers in the city of Bogalusa?

A. No, sir, we knew of nothing they had, we knew who the regular officers were.

Q. Mr. Simmons, while you were there after lunch, did you see any women folks?

A. I seen Mrs. Williams, Mrs. Jim Williams,
856 I see those two ladies.

Q. State whether or not anything was said by Mr. Lem Williams with reference to the ladies?

A. He told the ladies they had better stay inside.

Q. Now, where did you go when you left the office?

A. I went immediately to my home, I went immediately on home.

Q. How did you go?

A. I walked down the street with my rifle and I passed a boy of mine— I had a son who was working in a butcher shop— and I asked him to take me home on the butcher truck.

Q. Did you hear the shooting?

A. No, sir, I did not.

Q. When did you first learn that there had been shooting?

A. Just before I went home I was flagged down by Jim Wagner and Sol Alterbrooks, and they asked me what all that shooting was and I told him I never heard any shooting.

Q. While you were there did any one else pass, or did you see any one else?

A. Yes, I seen Mr. Z. D. Nichols pass in his truck.

Q. Which way was he going?

A. He was going toward Mr. Williams' office.

Q. Did you see him after that?

A. Yes, I seen him when he came back.

Q. How long had he been gone?

857 A. Oh, not long, a few minutes.

Q. Were you near him on his truck when he came back?

A. Yes, I passed his truck when he came back.
Q. State if you know what he had in the truck?
A. He had a couple of guns in his truck.
Q. State whether or not he tried to reach the scene of the shooting?

Mr. Higgins:
Now, your Honor, that is a matter of opinion. State whether or not this man told you that.

The Court:
State only what you know Mr. Simmons.

By Mr. Johnson:
Q. Now, Mr. Simmons, did you receive a summons to appear here to testify?
A. Yes, sir.
Q. Have you ever testified in regard to this occurrence before?
A. Yes, sir.
Q. Where and when?
A. Franklinton, before the Grand Jury.

Cross Examination:

By Mr. Higgins:
Q. Since you testified in Franklinton, have you spoken to anybody about this case?
A. Spoken to anybody, I believe I have.
Q. To whom did you speak?
A. Well, Mr. Johnson.
Q. Anybody else?
A. Possibly I spoke to Mr. Soule.

Q. Anybody else?

858 A. I don't know sir.

Q. You don't remember?

A. No.

Q. What position do you hold at the present time?

A. I am a carpenter, contractor, in a small way.

Q. Working for yourself or somebody else?

A. Working for myself when I contract, and when I ain't contracting I work for somebody else.

Q. For whom did you work on this occasion?

A. Different men, I guess I worked for about a dozen different men since I have been in Jackson, I don't work for any particular men.

Q. Where do you live at the present time?

A. Jackson, Miss.

Q. Were you a member of the Union at that time?

A. Yes, sir, and am now.

Q. You are now, which Union?

A. The carpenters Union, Financial Secretary of the carpenter's Union.

Q. Now you stated Williams said to you that the mob was after Dacus?

A. Yes.

Q. Did you see what the charge against Dacus was?

A. No, sir, I don't know.

Q. Do you know why the mob was after him?

A. I don't know.

Q. How long did he stay at Williams' place?

A. He was there about 7:30 or 8:00 o'clock in the morning, I seen him there and then I seen him when

859 he came back, whether he stayed there all the time when I came back, I don't know, but he was there when I came back a few minutes to 12.

Q. Where did you go after he left?

A. I went on the north side of Bogalusa creek where the depot was.

Q. What did you go there for?

A. Mr. Williams sent me over there to investigate, to find out by whose orders the passenger train was stopped the night before at 4th Street.

Q. Did you find out?

A. No, sir, I did not.

Q. You couldn't find out?

A. No, sir.

Q. As a matter of fact don't you know why it was stopped?

A. How should I know?

Q. What time did you say you saw Dacus there on your second visit after you came back from the north side?

A. Must have been five or ten minutes to 12.

Q. How long did he stay there while you were there at that time?

A. All the time I was there, that is the first time, all the time I was there, he left immediately after I got back, a few minutes after I got back, the second time, he didn't stop but a few minutes.

Q. He left before you did?

860 A. Yes, before I did.

Q. He went into the swamps?

A. Yes, sir.

Q. You told him he had better get away?

A. Yes.

Q. Why did you think he had better get away?

A. I thought it might be the safest place for him.

Q. How do you mean safe?

A. I thought he might get hurt if he stayed.

Q. Why do you think he might get hurt?

A. Well, that is a very hard question for me to explain, he was likely to get hurt, there was quite a lot of excitement.

Q. You say a mob was after him?

A. I didn't say a mob was after him, I just heard they were coming after him.

Q. You heard it?

A. Yes, sir, I didn't see it.

Q. You thought it was time for him to get in the swamps, is that right?

A. Yes.

Q. And you advised him to get to the swamps?

A. I sure did.

Q. And did he?

A. He did.

Q. And after that, I understand your testimony to be, Williams prepared to resist the mob, is that right?

A. That is right.

Q. Now, what kind of a building was that
861 office building?

A. Little plank building.

Q. Do you know how thick those walls were?

A. I guess about inch boards.

Q. Inch boards, got any windows?

A. Yes.

Q. How many?

A. I remember two, I don't know if there were more.

Q. Any doors?

A. One door.

Q. What were the windows constructed of?

A. Open air.

Q. Open air, in other words they were open?

A. They were open windows to the best of my recollection.

Q. Was the door open?

A. The door was open at that time, it had a shutter it it.

Q. What kind of a door was it, wooden door?

A. Wooden door to the best of my recollection.

Q. Was the whole door wood or part of it?

A. My recollection is the whole door was wood if there was any glass in it , I don't remember.

Q. Was the door open or shut?

A. When?

Q. At the time you left there at 12 o'clock.

A. It was open.

Q. Williams said the mob is coming after Sol Dacus, or the strong arm bunch is coming after Sol, is that right?

A. Just said, they are coming, he says the mob.

Q. You said the strong arm bunch a little while ago?

A. I don't remember that.

Q. What time of day was it that Bouchillon
862 and O'Rourke took Dacus out on Columbia Road?

A. I didn't see that at all.

Q. Somebody told you that?

A. Somebody told me.

Q. You don't know what time it was?

A. No.

Q. Do you know whether it was at 8 o'clock in the morning?

A. I don't know if it was 8 o'clock or nine o'clock, or when, I wasn't there.

Q. What time did Williams tell you he had seen these men, what time was it he sent them out?

A. A few minutes of 12, five or ten minutes of 12, something like that, when he told me that.

Q. And you say that was like shaking a red flag in a bull's face?

A. I said that.

Q. Now, who would you consider the bull on that occasion?

A. The men that were after Sol I would consider the bull.

Q. Do you know who was after him?

A. No, sir, I didn't see them.

Q. Did you say something about Sol having trouble, any difficulty?

A. I believe they stopped me on that proposition, didn't they?

Mr. Dufour:

You objected, Mr. Higgins.

By Mr. Higgins:

Q. Do you know of your own knowledge why they were after Dacus?

A. Not of my own knowledge.

Q. Do you know what he was charged with?

863 A. No.

Q. You don't know what they had against him?

A. Not to my knowledge.

Q. Now, when Williams told you to come back that there might be trouble, you say you did go back?

A. I did go back, yes, sir.

Q. Did you go back to participate in the trouble, or why did you go back?

A. Well, my object for going back was to see if I could keep trouble down, I have always preached and argued for peace and harmony, I am a man that don't like trouble, I don't like to participate trouble, I don't like it, I like to save people.

Q. What time did you say you left the office the last time you left, when your wife called you?

A. Oh, I guess it was—I won't be positive—I don't know—but before one o'clock, half past twelve maybe or twenty minutes to one when I left.

Q. How far did you live from Williams place?

A. About half a mile.

Q. You went right straight home?

A. No, I went right straight down Columbia Road to the butcher shop, which my son, who was a boy of twelve or fourteen was working at, and I asked him or somebody to get the man he was working for to send me home in the truck.

Q. Did you reach home before you heard
864 the shooting?

A. No, I heard of the shooting before I reached home. Mr. Jim Wagner and Mr. Sol Alterbrooks flagged me down and asked me what the shooting was, and I told them I never heard it.

Q. Did you make any attempt to go to the city hall to warn the officials that there was going to be trouble?

A. No, sir.

Q. Did you go to the city hall and tell them where you had seen Dacus?

A. No.

Q. This office building is on Lem Williams property, is it not?

A. Yes.

Q. Do you know of your own personal knowledge whether there had been any charge made against this man O'Rourke and also Bouchillon?

A. I don't know of my own knowledge, no, sir.

Q. What kind of boards were those that Bouchillon had put up in the window?

A. They were boards that looked like they came off of a dry good box.

Q. What thickness were they?

A. About three-quarters of an inch, I don't know exactly, I didn't measure it.

Q. Did he nail them up too?

A. No, just stacked them up in some way.

Q. Which window of the office did he put those boards up against? (Counsel exhibiting map
865 to witness). This is Columbia Road this is the office building, this is Lem Williams property, this is his residence, this is his garage, and this is the two story building on that side?

A. Now this is Columbia Road.

Q. The gate faces the office, this is the garage, this is the residence, this is the two story building next to Lem Williams property?

A. There is the door (witness indicating) here is a window on the west side and here is a window on the south side, there was a window here next to Columbia Road.

Q. This window was shut up with boards that O'Rourke placed there?

A. Not O'Rourke.

Q. Bouchillon?

A. Yes.

Q. He closed the window up with boards?

A. I didn't say he closed it up entirely but he put boards up against it.

Q. How much of the window?

A. That I don't recollect.

Q. How many boards did he put?

A. I saw him nail at least three.

Q. How thick were they?

A. I don't know how thick they were.

Q. How wide, inch boards, three, four or what?

A. If you want to put it that way, there
866 were between two inches and eight inches.

Q. How did he fasten them?

A. I don't know, how he fastened them, he stuck them in and jammed them some way.

Q. Did he nail them on?

A. No, he didn't nail them, he just jammed them up.

Q. Now, which part of the window was closed, the lower or the upper part?

A. Right about the central part of the window.

Q. The center of the window through the bottom, is that right?

A. The boards were near the bottom, stacked along about the center of the window.

Q. Were they like that (Counsel indicating).

A. Cross ways, not up and down.

Q. They were put across from the bottom of the window?

A. No, across from one side to the other.

Q. I understood they were placed right across the window that way? (Counsel indicating). Each one about half way up, is that right?

A. They started about half way, one above, one below, starting at the bottom.

Q. He left big gaps in the various boards?

A. Yes, sir, he did.

Q. And that was the fortification he was making?

A. That's it.

867 Q. Now, you can't be mistaken that it was this window in the office where he placed his boards? (Counsel indicating).

A. The window facing Columbia Street.

Q. The window facing Columbia Street, that is the window that he placed those boards in?

Q. If this is the map—here is Columbia Street and it was this window here (witness indicating).

Q. Did you see a man there by the name of Arthur McAlister at that time?

A. Do I remember seeing him at that time? No.

Q. Will you swear that he was not there?

A. No, I won't swear that he was not there, I don't know.

Q. Did you see a man by the name of Tom Gaines?

A. Yes.

Q. Did you see a man by the name of Clay Richau?

A. Yes.

Q. Did you see a man by the name of Armand Bourgeois?

A. Who?

Q. Armand Bourgeois.

A. I don't remember seeing him.

Q. Do you know him as Frank Bourgeois?

A. I know Frank Bourgeois, yes.

Q. Frank or Armand Bourgeois, was he there?

A. I don't remember seeing Frank.

Q. Well, if Frank or Armand Bourgeois is the same party, was he there?

A. I don't remember seeing him, I can't be
868 positive, but I don't remember seeing him.

Q. Did Williams place anything in front of the door to barricade it?

A. No, sir.

Q. You say you didn't know at that time who the special officers were of the city of Bogalusa, is that right?

A. Yes, I didn't know who they were.

Q. You knew who the deputy sheriffs were?

A. Yes, we had a list of them.

Q. You had the names of the regular officers of the city of Bogalusa?

A. We knew them personally, we didn't have the names, but we knew them personally.

Q. But you didn't know the special officers, or the volunteer officers of the city at that time?

A. No.

Q. You don't remember seeing Renfrow there?

A. When I left to go home he walked down the street with me, Mr. Renfrow did, that is the last time I left in the afternoon.

Q. Now you say you are a man of peace?

A. Sir?

Q. You love peace?

A. I have always loved peace.

Q. And you advised the men to keep the peace at all times?

A. At all times.

Q. You were one of the officers of the Union, were you not?

A. No, sir, I was not an officer.

Q. You were not?

869 A. I was just a member of the Union and I was assisting Mr. Williams, I helped on the official business of the Union.

Q. Were you paid for your services?

A. I never was paid, I intended to be paid, I was to be paid on Monday, after he was killed on Saturday.

Q. You never were paid?

A. No, sir.

Mr. Johnson:

A little louder Mr. Simmons please, some of the jury say they can't hear you.

By Mr. Higgins:

Q. Do you know whether or not Lem Williams was writing on the typewriter while you were there?

A. No, sir, I don't remember.

Q. How long have you been away from Bogalusa now?

A. Ever since then.

Q. Ever since the killing?

A. Ever since 1919.

Q. Any reason why you left there?
A. Yes, I had a reason for leaving there.
Q. What reason?
A. I had no job, no work to do.
Q. Did you leave the same day of the killing?
A. Yes.
Q. What time?
A. Late in the evening.
Q. About what time?
A. I don't know, before dark, but I don't
870 remember the time.
Q. You say you left because you didn't have any work?
A. That is why I moved away.
Q. Why did you move on the day of the killing?
A. Got frightened.
Q. You were afraid?
A. Yes, in a way, yes.
Q. You found out what had happened to Williams, is that right?
A. Yes.
Q. You found it out before you left?
A. Yes.
Q. And you were afraid to stay after that?
A. Yes.

Re-Direct Examination.

By Mr. Johnson:
Q. Where were you when you were summoned to appear in this case?
A. Franklinton, La.
Q. State to the Jury the occasion for your being at Franklinton?

Mr. Higgins:
I object, this has nothing to do with the case.

Mr. Johnson:
I think we have a right to show where the witness was when he was summoned.

The Court:
I don't see the relevancy, I sustain the objection.

Mr. Dufour:
I reserve a bill.

871 H. J. COWGILL, witness, being duly sworn and examined on behalf of Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:
Q. What is your name?
A. H. J. Cowgill.
Q. Where do you reside?
A. Bogalusa, La.
Q. How long have you been residing there?
A. Sixteen years.
Q. What is your occupation?
A. Contractor.
Q. Where did you reside in 1919?
A. Bogalusa.
Q. Were you one of the special officers of the city of Bogalusa at that time?
A. I was.
Q. Did you receive any pay for your services?
A. I did not.

Q. Were you one of the special officers who answered the summons on November 22, 1919?

A. I was.

Q. What was the signal for the summoning of the special officers?

A. The blowing of the whistle at the mill.

Q. Had you previously on any other occasions, answered that summons?

A. I had.

Q. When?

A. About a month prior to that time.

Q. What was the trouble on the first occasion when the special officers were summoned?

A. Threatening storming of the jail.

Q. Did you go to the city hall?

872 A. I did.

Q. What happened there?

A. When the special officers arrived the crowd dispersed.

Q. You answered the summons on the second occasion?

A. I did.

Q. And did you go to the city hall?

A. I did.

Q. Did you meet any officials when you arrived there?

A. I was a little bit late and Mr. Macgee sent me on to follow the rest.

Q. Did you see Mr. Macgee—you mean Chief Macgee?

A. Chief Macgee.

Q. Did he tell you what they were going to do?

A. Going to arrest, had a warrant to arrest Sol Dacus.

Q. When you left the city hall was that your purpose in going?

A. It was.

Q. Were you bound on any shooting or killing?

A. I was not.

Q. What did you do when you left the city hall?

A. I drove from the north side across Columbia Road down to Williams garage.

Q. Did you see any ladies in that vicinity when you got out of your car?

A. I did.

Q. Who did you see?

A. As I passed Williams garage, the gate was on the road way, Mrs. Williams and her sister came out and went north on Columbia Road.

873 Q. Was that before the shooting?

A. It was.

Q. Who lived in that direction in which they were going, any members of their families?

A. I think Mr. Williams father lived in the second or third house.

Q. Where did you stop your car?

A. In front of the street before the Cefalu building and the big steam laundry.

Q. What did you do when you alighted?

A. The trouble had started about the time I got out of the car.

Q. The shooting had started at the time you got out of your car?

A. Yes.

Q. Did you see these ladies before or after the shooting started?

A. It was before the shooting started.

Q. How long before?

A. Probably a minute.

Q. Are you connected with the Great Southern Lumber Co.?

A. I am not.

Q. Have you ever been connected with the Great Southern Lumber Company?

A. I have.

Q. When?

A. My last connection with the Great Southern Lumber Company was in 1912.

Q. You have been in business for yourself
874 ever since?

A. Yes, sir.

Q. Did you know Lem Williams?

A. Yes, sir, I did.

Q. What was his general reputation in the city of Bogalusa for peace and quiet?

A. Bad.

Q. What were the general conditions that existed in Bogalusa at the time and just prior to the date of the killing?

A. Everything was upset, there was no law and order whatever, the City Council couldn't function, the city Governmnt was at a standstill, our lights and water were out.

Q. Did the City of Bogalusa take any steps to meet that situation?

A. They did.

Q. What did they do?

A. Organized the business men of the town to furnish the city authorities special police and help them to restore law and order.

Q. Was that why you joined the special police?

A. It was.

Cross Examination.

By Mr. Higgins:

Q. Did you have any name for that organization?

A. We had.

Q. What was the name?

A. Self-Preservation and Loyalty League.

Q. How many members did you have?

875 A. Somewhere about 600.

Q. What was the population of Bogalusa?

A. Around 16,000.

Q. You had 600 members.

A. That was at the last of the organization, is that when you have reference to?

Q. They consisted of the business men of the town you say?

A. Our first organization was organized with the business men and professional men of the town, we didn't take in any Union men or anybody connected with the Great Southern Lumber Company at all until probably December, which was after the killing, we had probably 200 members, but after that everybody joined.

Q. After that, when?

A. It was sometime in December practically, the whole community that was left.

Q. After the killings?

A. Yes, sir, sometime in December.

Q. The whole community joined this League after the killing?

A. I would say that was when the extra members joined and brought it up to I think, 670 odd members, to be as near correct as I possibly can.

Q. Before that time you only had 200?

A. About 200 members.

876 Q. Well now, when was it you only had 200 members?

A. Right from the start.

Q. When was it you had about 600 members?

A. That was sometime in December, I can't tell you exactly when.

Q. That was after the killing?

A. Yes.

Q. How many special officers did you furnish?

A. Between 50 and 75, maybe 60, I don't just remember, it was a volunteer organization.

Q. What interference, if any did the Union men give to the operation of the dental office?

A. Of the what?

Q. Of the dental office?

Mr. Dufour:

There is no reference to any question asked on Direct Examination, dental surgeon difficulty in the community outside of his office.

Mr. Higgins:

I will withdraw the question.

Q. You say you didn't permit any Union men to belong to that organization?

A. Yes.

Q. Just business men and professional men?

A. Just business and professional men, that is all there was in the organization until December.

Q. Was Major Guerre a member of that organization?

A. He was not at the time of the killing, I
877 don't know whether he joined afterwards or not?

Q. Did he have anything to do with the formation of the organzation?

A. He did not.

Q. Who organized it?

A. I did.

Q. You did. Well, did you have any office or director of it?

A. I acted as chairman, that is all.

Q. You were chairman and you were in charge of it?
A. Yes.
Q. Was Mr. Sullivan a member of it?
A. He was not, he was not even in town.
Q. Was Mr. Jack Cassidy a member?
A. He was not.
Q. Was Mr. E. R. Cassidy a member?
A. He was not.
Q. Was Jules LeBlanc a member?
A. Yes.
Q. Was Mr. Lindsley a member?
A. He was.
Q. Was Mr. Wilcox a member?
A. He was.
Q. Was Mr. Levert a member?
A. Yes, sir.
Q. Was Mr. Bienn a member?
A. I can't say for sure, I think he was, that is Dave Bienn.
Q. The gentleman here in the Court room, Mr. Dave Bienn?
A. I am pretty sure he was a member.
Q. How often did you meet?
A. I think we met in the formation of it, for probably one week we met every night, we trained the policemen, we got enough men to help out the city police department and they were sworn in, and then there
878 were very few meetings after that.
Q. Talk louder, I can't hear you.
A. I say probably we had six or seven meetings, probably for a week, in order to get our organization together, and after the special police were furnished to the city government, we probably did not have over a half dozen meetings all told, may be we had more or less, I can't say.

Q. What were the qualifications of membership?

A. Wasn't to be any Union men, or men who worked for the Great Southern Lumber Company and we didn't take any of the city officials.

Q. Ladies permitted to join?

A. No, sir.

Q. Do you know of your own knowledge who cut off the water?

A. I know we didn't have water.

Q. You don't know who cut it off of your own personal knowledge?

A. Well, there were Union men who wouldn't let them go back in the boiler room, they had no steam to furnish either lights or water.

Q. How do you know that, of your own knowledge, or what somebody told you?

A. Why what the men themselves told me that were working there at that time, I wasn't there.

Q. You were not there, so you really don't know anything of your own personal knowledge?

A. Not of my own personal knowledge.

879 Q. Somebody told you?

A. Yes.

Q. You don't know who cut off the lights of your own personal knowledge do you?

A. Well, the lights were cut off.

Q. Did you go to Williams place that day?

A. I did.

Q. Were you armed?

A. I was.

Q. Did you have a gun?

A. I did.

Q. What kind?

A. Shot gun.

Q. Loaded?

A. Yes.

Q. With what?
A. With shot.
Q. What kind of shots?
A. Buck shots.
Q. Did you shoot anybody?
A. (No answer.)
Q. Did you go in his yard?
A. I did not.
Q. Where did you stand?
A. In front of the Cefalu building, he has property 125 or 150 feet south of their yard.
Q. Were you a special officer that day?
A. I was.
Q. When did you see Mrs. Williams and her sister?
A. Probably a minute before the shooting took place, coming out of the yard and going north on Columbia Road.
Q. Where were you standing at that time?
A. I was standing, I was going up in my car as they came out.
Q. Were there many cars on the road at that time?
A. Probably six or eight down there by that
880 time, something like that.
Q. Parked on Columbia Road?
A. Yes.
Q. Did you see them before they came out of the yard?
A. I got there just as they came out of the yard and turned north.
Q. Were they running or walking?
A. Going at a pretty fast gait, they were not running.
Q. Did Mrs. Williams have her little boy with her?
A. I don't know whether she did or not.
Q. You don't remember that, you saw her?

A. I saw her.

Q. You know Mrs. Jim Williams?

A. Yes, sir.

Q. You don't remember whether the boy was there or not?

A. No, sir, I can't tell you.

Q. Was she hollering or just going along peacefully?

A. She was not making any noise that I heard.

Q. Making no noise at all?

A. (No answer.)

Q. Were the men in the yard at the you you saw Mrs. Williams?

A. Well, I can't remember, when I drove up there were some of them on the street, when I drove on up to the Cefalu building, I didn't know whether there were any men in the yard or not.

Q. Now how many men were in the street?

A. I just told you I didn't know, I didn't see them in the yard, I couldn't tell.

881 Q. Whom did you see at this time?

A. Where I was at, I believe Mr. Dave Bienn and Mr. House was with me.

Q. I mean at the time you passed by in the automobile?

A. Well, I can't tell you just who, Mr. Lindsley was there with a crowd that had gone down with him, but I couldn't tell you the names of any of them.

Q. Where do you live now?

A. Bogalusa.

Q. What business?

A. Contractor.

Q. Working for anybody or for yourself?

A. Myself.

Q. Had you any business connection with the Great Southern Lumber Co.?

A. None whatever.

Q. What kind of contracting work do you do?

A. General contracting, building, road work, street paving, gravel work.

Q. Do any building of residences or anything like that?

A. No, sir.

Q. Put in any contracts for the city of Bogalusa over there?

A. I have.

Q. Street paving?

A. Well, the side walk work.

Q. Side walk paving?

A. Yes.

Q. What city official did you deal with in making contracts?

A. With the entire Commission Council.

Q. Who signed the contracts that you had with the city, representing the city?

882 Mr. Dufour:

If your Honor please, what difference does that make, we object.

A. A general resolution is drawn up, instructing the Secretary, the City Clerk, and the Mayor to sign it, and I think one contract was signed by the Mayor, and I think one was signed by the acting Mayor, Mr. Cassidy, I think he signed one, I am not sure, I never paid any attention.

Q. How many contracts have you had with the city?

A. I have had four or five different contracts for the sidewalk.

Q. Were these large contracts or small?

A. They run to $8,000, or $10,000, apiece.

Q. Do you know what the charge against Dacus was?

A. Disturbing the peace.

Q. The day you saw the crowd at the jail, they peacefully disbursed and went on about their business?

A. Yes, sir.

Q. No shooting or anything of that kind?

A. At the jail, no shooting at the jail.

Q. The crowd went on about their business when the special officers arrived?

A. I won't say that because I was late when I got there and they had practically disbursed though there were some still walking the streets.

883 Q. Do you remember how Mrs. Williams was dressed?

A. No, I don't.

Q. (Counsel exhibiting map) Where were you standing at the time the shooting took place? This is Columbia Road, this is the two story building next to Lem Williams property, this is his office, this is his garage, and this is his residence?

A. This map does not show where I was at that time. This only shows this building and I was clear over here.

Q. You were over here? (Counsel indicating.)

A. Yes, there was another building in front of this one and there was a frame building on the corner which belonged to Cefalu and then there is this street, and then there is Lem Williams' property.

Q. And where were you when you saw Mrs. Williams?

A. Here, right here. (Witness indicating.)

Q. You didn't see any of the shooting at all?

A. I didn't see any, I couldn't.

Q. Were you stationed over here? (Counsel indicating.)

A. Yes.

Q. You had a gun with you, you say?

A. Yes, that map does not show, there is another lot at the end of the street.

Q. Did you go down to the place with a machine?

A. I did not.

Q. What did you do after the shooting?

884 A. I saw Mr. Lindsley and I went to the city hall to see that they got the Coroner over.

Q. How much did you weigh during 1919?

A. I can't tell you, somewhere around 200 pounds, I guess.

Q. And how tall are you?

A. Five feet five inches.

Q. Five feet five inches?

A. Five feet five inches, or six inches, somewhere around that.

Re-Direct Examination:

By Mr. Dufour:

Q. Mr. Cowgill, did you know a man living in Bogalusa at that time by the name of Sumrall?

A. There were several there, I don't know him by name.

Q. When you were there on the scene at this time, did you see anybody by the name of Sumrall?

A. No, sir, I did not.

Q. Did you point your gun, or poke your gun at anybody?

A. No, sir, I had no chance to whatever.

Q. What were the conditions that brought about the organization of that Loyalty League?

A. Why it was simply the conditions in the town, no law and order, the city government couldn't function—

Q. Why do you say the city government couldn't function?

A. Why simply because the acting Mayor was out of town and at that time they had elected a man on the Commission Council by the name of J. Regan
885 with the help of the Union men and they tried to put over things that were not satisfactory to people. They never had a quorum I guess about half the time.

Q. What were the conditions of peace and quiet?

A. Why it was threatening all the time, the lights and water were shut off and we were scared to go out and that was the reason why we formed the Loyalty League.

Q. What was the purpose of the Loyalty League?

A. Why merely to give the city government backing so they would be able to function again and to back up the police department and the fire department.

Q. Did anybody connected with the Great Southern Lumber Co. belong to that organization?

A. No.

Q. That is correct?

A. Yes.

Q. You didn't take any Union men either?

A. No.

By Mr. Higgins:

Q. Did you know each and every one of these men that belonged to that Loyalty League personally?

A. No, sir, I did not.

Q. Did you know the occupation and business of each and every one of them?

A. Well practically I did not.

Q. Therefore when you say that they were not employed by the Great Southern Lumber Co., you
886 really don't know?

A. I certainly did know.

Q. You say you didn't know them all personally?

A. I do, because we took it up at each meeting, as we increased our membership, to see who we were taking in.

Q. Did you make any investigation to find out?

A. We had a committee that made the investigation.

Q. So your knowledge is based on what somebody told you?

A. But I was right there and attended each meeting.

Q. I understand, but you didn't go and make these investigations as to what the employment of each man was that joined the League, do you?

A. Not personally.

Q. Then you depended on your committee to make that investigation?

A. As far as that goes, everybody was as much interested in it as I was, it was our bread and butter, and the Union men were going around and saying they wanted to see the billy goats eat grass from the streets of Bogalusa, that is just the condition that existed at that time, and the men that were taken in I wouldn't swear that I knew them personally, but I am pretty sure there were no Union men that joined, or any Great Southern Lumber Co. men were taken in.

Q. Do you know how many Unions there
887 were in Bogalusa?

A. No, sir.

Q. Why did you exclude the Great Southern Lumber Co. employees?

A. Simply so as to be neutral, we tried to be neutral, that we would simply back up the city government for

law and order, it was not a fight for the Union and it was not a fight for the Great Southern Lumber Co., it was simply a fight for law and order in Bogalusa, they could fight out their own battles themselves.

Q. Then you knew that there was a fight going on between the Union and the Great Southern Lumber Co. at that time?

A. I don't know what their trouble was in any manner, shape or form.

Q. But you knew there was trouble?

A. I knew there was something between the Great Southern Lumber Co. and the Unions.

By Mr. Talley:

Q. Mr. Cowgill, will you please explain to the Jury just how you had to organize this League, how many men did you have at first?

A. The organization of the League was done first by ten men whom I picked up, because I knew how they stood, I talked it over with each and every one of them and we met that night and we just picked two men, to see that they were neither Union Men or Great
888 Southern Lumber Co. men, or men that owned property in Bogalusa. We balloted on each of these men. On the second night when we met we had thirty men and we did the same thing again. On the third night there were 89, and on the fourth night I think it went up to somewhere around 150 to 175 members.

Q. Why didn't you have that meeting out in the open somewhere?

Mr. Higgins:

Don't lead the witness.

Mr. Talley:
We want to show that conditions were such that we could not meet in the open.

The Court:
What was the objection?

Mr. Higgins:
I objected to him leading the witness.

The Court:
Well, don't lead the witness, Mr. Talley. What was the question?

Mr. Talley:
I asked him why didn't they have those meetings at the city hall or somewhere out in the open, in the day time, when they organized this League?

Mr. Higgins:
That calls for the opinion of the witness.

889 The Court:
He can state his reasons why they didn't do it.

A. We couldn't hold the meetings out in the open, it would be impossible, we wanted to have enough force so we could present a front. The telephone office girls listened to all conversations. We couldn't speak over our telephone but what they reported it, it didn't make any difference what our conversation was or anything else, we were watched and reported, it would have been impossible for us to hold a meeting out in the open. Even after this organization was formed, they tried to

drive some men away from town that the Great Southern Lumber Co. brought in to start up the mill, or to start up repairing the mill, that is what led to the storming of the jail.

Q. Who tried to drive the men out of town?

A. Well, the Union led by Mr. Lem Williams and that crowd.

Q. Were you there?

A. I was.

Q. Where was this?

A. At the depot on the north side.

Q. Was this the crowd that was causing this disturbance?

A. Yes, sir.

Q. How did they do it?

A. Why they heckled the men and tried to force them to get back on the train, I don't think they hit any body at that time, the police came along and they kind of quieted down, they got them out of the
890 way and then there were warrants issued for the rest of the men that caused the disturbance. They were arrested and put in jail and tried and fined and paid their fines.

Q. Now, this was just immediately before the attempted jail delivery wasn't it?

A. Yes.

By Mr. Higgins:

Q. Did you know a man by the name of O'Brien?

A. I did.

Q. Was he run out of town?

A. That was the report, I don't know, I didn't see it.

Q. In other words, you folks were protecting the men that came into Bogalusa to be employed by the Great Southern Lumber Co.?

A. We would protect anybody on the streets of Bogalusa.

Q. But you did protect these men that came in?

A. The police department did.

Q. Did you grant the Union men the right to speak to the men that came in on the train and who were to be employed by the Great Southern Lumber Co.?

A. They didn't ask to speak to the men at all, they were simply trying to force them to drive them back on the train again.

Q. You say they didn't beat anybody?

A. No, because the police got there and escorted them to the cars. Our object wasn't to protect
891 the Great Southern Lumber Co., but to protect any one, it was merely to enforce law and order.

Q. Nobody was shot?

A. No.

Q. Nobody was killed?

A. No.

Q. And the men were discharged with disturbing the peace, is that correct?

A. Yes.

By Mr. Talley:

Q. Mr Cowgill, they came mighty near having some shooting at the depot, didn't they?

Mr. Higgins:

Oh now, that is a question of opinion.

The Court:

Better ask him what happened.

Mr. Talley:

Q. Well, what happened, Mr. Cowgill?

A. When the train pulled in on the north side there were men started to come over. I believe Jim Spears, Mr. Williams and four or five others, I don't know just how many, and they started to heckle them and try to get them to go back on the train, and when they would not get back on the train, they started to force them back and the police came up—I believe it was Johnnie Branch—I forget the other fellow's name—and they quieted down, but it looked pretty dangerous for a while, but they got them on the cars and got them away.

892 By Mr. Higgins:

Q. You took these men that were employed by the Great Southern Lumber Co. and brought them away?

A. We did not.

Q. Who did it?

A. The Great Southern Lumber Co. or somebody, put them on the cars and took them away.

Q. But you were—

A. No, after they were put on the cars, the police stayed there with the mob.

Q. Who were the police?

A. I believe it was Branch and—what is that man's name now—Mitchell. They were the two police that were there, outside of the special police.

Q. And you were there?

A. Yes, sir.

Q. What were you doing there?

A. Why I was over there trying to keep things quiet.

Q. You were a policeman at that time?

A. I was.

Q. Now, as a matter of fact you arrested Williams did you not, or the police arrested Williams?

A. The police arrested him.

Q. You saw him arrested?
A. I did not.
Q. Were you not there?
A. I was not.
Q. What are you testifying for then if you were not there?
A. I never said I was there.
Q. Well, all you are saying is all hearsay, what somebody else told you?

Q. It is not, they didn't arrest Williams at
893 that time.

Q. When did they arrest him?
A. Not until later.
Q. They didn't arrest him at the time he was creating disturbance?
A. They did not.
Q. Why?
A. There were not enough men to arrest the crowd, to take care of them, they had to go back and get warrants and they were arrested later by the police.
Q. The police were afraid to arrest them at that time?
A. Certainly they were.
Q. The police were afraid to go to his place of business and arrest him the day he was killed, they were afraid to go?
A. You mean—
Q. I mean the regular police?
A. If he hadn't been—
Q. As a matter of fact you knew he was fined and put in jail?
A. Yes.
Q. And he was fined?
A. Yes.
Q. And he paid his fine?
A. Yes.

Q. He got out of jail?
A. Yes.
Q. And he was charged with disturbing the peace?
A. Yes.

Recess until 2 P. M.

2 P. M. Examination resumed.

F. W. WATTS: witness, being duly sworn and examined on behalf of Defendants, testified as follows:

894 Direct Examination:

By Mr. Dufour:
Q. What is your name?
A. F. W. Watts.
Q. Where do you reside?
A. Bogalusa.
Q. How long have you lived there?
A. Thirteen years.
Q. What is your business in Bogalusa?
A. I am manager of the Bogalusa Grocery & Grain Company, wholesale.
Q. Is that concern identified with any New Orleans concern?
A. It is.
Q. What?
A. The Interstate Wholesale Grocery.
Q. It is a branch of that concern?
A. Yes.
[Q.] What business were you engaged in, in November, 1922?
A. Same business.

Q. Were you yourself, at any time connected with the Great Southern Lumber Co.?

A. Never have been, no, sir.

Q. Were you one of the special officers in the city of Bogalusa in November, 1919?

A. Yes, sir, I was.

Q. A volunteer?

A. Yes, sir.

Q. Did you get any pay?

A. No, sir, none whatever.

Q. Do you recall the blowing of the fire whistle of the Great Southern Lumber Co. on November 22, 1919?

A. Yes, sir, I do.

895 Q. What was that whistle blown for?

A. It was blown for the special officers to come to the city hall.

Q. Did you go to the city hall on that occasion?

A. No, I was at my office, and my help was not there, and I guess I must have stayed until about 1 o'clock before I left the office.

Q. When you speak of your help wasn't there, you mean your force?

A. Bookkeeper, my force, shipping clerk, so on.

Q. Why were they not at the office at that time?

A. They had gone to lunch.

Q. That was during the noon hour?

A. Yes, sir.

Q. When did you arrive at the scene of the shooting?

A. Well, it must have been after one o'clock, and as soon as they returned, why I went down.

Q. Where did you first go?

A. To the city hall.

Q. What did you find at that time at the city hall?

A. The jailor, I asked him where the special police

were, where Mr. Macgee was, Chief Macgee, and he said they had gone down to Lem Williams, so I went on down there.

Q. The shooting was over when you arrived?

A. It was over, yes.

Q. Do you know Bob Carson?

A. I do.

Q. Did you see him there on that occasion?

896 A. Bob Carson came out after I got there, a few minutes later.

Q. Came up in what?

A. In the car, automobile.

Q. In the automobile?

[A.] Yes.

Q. Do you recall who was with him?

A. Well, a fellow by the name of Justice and Nic Jenkins, that I knew.

Q. They drove up at that time?

A. Yes.

Q. Had you previously responded to that signal?

A. Yes.

Q. How long before this shooting?

A. Well, I don't know just how long but a few weeks before that when they had a disturbance at the jail.

Q. Did you go to the city hall?

A. I did.

Q. What were the conditions existing at that time?

A. Well, there were some armed men at the jail that wanted to break the jail and take some men out of jail that were in jail.

Q. What happened, what did the armed men do when the police got there?

A. They disbursed.

Q. Do you know Lem Williams?

A. Yes.

Q. What was his reputation in the community for peace and quiet?

A. It was bad.

Q. What were the general conditions existing at Bogalusa at that time and just prior to the shooting?

A. Well, the conditions were very bad.

897 Q. What do you mean by very bad?

A. Well, our city government couldn't function.

Q. What were the other conditions that existed, just tell us in a general way, what they were?

A. Well, they cut our lights and water off for a night and day, refused to let us have lights and water.

Q. Was the town peaceful and orderly?

A. No, it was not.

Cross Examination.

By Mr. Higgins:

Q. How long after the shooting was it before you got there?

A. Well, it must have been fifteen or twenty minutes.

Q. If Bob Carson left the scene of the shooting before you got there and was returned at the time you saw him, you would not be able to testify to that, would you?

A. Well, the only thing I know is Bob Carson was there when I got down there.

Q. You don't know where he was coming from?

A. He came from across town, he drove from across town down what they call Columbia Road.

Q. You don't know whether Bob Carson was present during the shooting or not, do you?

A. Well, I wasn't there during the shooting.

Q. Did you have a gun when you went to the scene of the shooting?

898 A. Yes.

Q. What kind of a gun?

A. A pistol.

Q. Was it loaded?

A. Yes, sir.

Q. Did you have it in your hands?

A. No, sir, it was in my pocket.

Q. Did you get that gun from the city hall?

A. No, I carried it with me.

Q. While you were at the city hall, did you see any guns?

A. At the city hall, no, not that day of the killing, there were no guns at the city hall on the day of the killing that I saw.

Q. Now, were you in an automobile?

A. Yes.

Q. Your own automobile?

A. Yes.

Q. Did you see anybody turn out the water or lights?

A. See them turn out the water or lights?

Q. Yes.

A. No, I didn't but then we were without water or lights for a night and a day.

Q. One night and one day?

A. I remember it, yes.

Q. Now, of your own personal knowledge, and not what somebody told you, do you know who caused the water to be turned off, or the lights to be turned out, of your own personal knowledge?

A. Not of my own personal knowledge, I can't say.

Q. How many volunteer officers went to the city hall the day of the attempted jail delivery?

899 A. Well, that I don't know.

Q. Can you name any of them?

A. Yes, I can name some of them.

Q. Well, name some of them?

A. Well, there was Max Stephens, Bob Carson was there, and the other fellow I don't know, there was such a crowd, there was an awful crowd at the city hall at that time.

Q. Was Wiley Macgee there?

A. I don't know. I don't remember seeing Wiley Macgee. If he was there I didn't see him.

Q. That is all the men that you can remember?

A. That I saw there, of course, with such a big crowd, you can't possibly see them all, recognize them all.

Q. The crowd of men that you saw there were all dispersed and went on about their business?

A. Yes.

Q. There was no shooting or anything of that kind?

A. None at all, no, sir.

By Mr. Dufour:

Q. Was that crowd armed?

A. They were.

By Mr. Higgins:

Q. How many men did you see with guns?

A. I don't know, I can't say, there were between 50 and 75 of these men, just how many were armed I can't say, there were quite a few of them, some of them with shot guns and I noticed one had a rifle on his
900 shoulder.

Q. All had shot guns and rifles?

A. Some of them had shot guns and I remember I saw one rifle.

Q. Did you arrest any one that day?

A. No, sir.

Q. Did you make any charges against them?

A. If any charges were made against them, I don't know.

Q. You were the special officer, what did you do?

A. We went down there to keep them from breaking the jail open and releasing the prisoners.

Q. Did you make any charge against them?

A. Not that I know of.

Q. You didn't make any charges?

A. No, sir.

D. C. JONES, witness being duly sworn and examined on behalf of Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. What is your name?

A. D. C. Jones.

Q. Where do you reside?

A. Bogalusa.

Q. How long have you been residing there?

A. Off and on about thirteen years.

Q. Where were you residing in November, 1919?

A. Bogalusa.

Q. Now, Mr. Jones, you must talk louder.

901 A. I was going to Mrs. Cranes' place on Columbia Road.

Q. Where is Mrs. Crane's place, her boarding house?

A. That is between Mr. Lem Williams house and his father's house.

Q. Does Mrs. Crane's boarding house form a boundary of Lem Williams lot?

A. Yes.

Q. Whose house immediately adjoins the Williams lot on the left hand side as you go in?

A. Adjoining Lem Williams on the right had [hand] side as you go in.

Q. As you go out, do you mean?

A. It is to the left.

Q. Where were you between 12 and 1 o'clock on November 22, 1919?

A. I was sitting on the front gallery reading.

Q. Sitting on the front gallery of the boarding house reading. Were you a special officer of the city of Bogalusa?

A. No.

Q. Did you see the special officers arrive on that occasion?

A. Yes.

Q. Where were you when you saw them?

A. Sitting on the gallery reading.

Q. When they came up, where did they go?

A. When they first drove up I seen guns in the car and I thought they were going hunting until I seen them begin to get out of the cars and then I
902 went to get my hat and instead of coming downstairs, I went on the front porch at the end of the gallery as they came across the street into the yard.

Q. Were you in a position where you could see what was going on?

A. Yes.

Q. Well now, please tell us what happened?

A. They came on in the yard, walked down to about thirty feet of Lem Williams place—office—and stopped and one of them, I don't know which, says "Drop that gun Lem because we have a warrant for that negro and we don't want to hurt you.

Q. You are satisfied you heard that statement?

A. Yes.

Q. What happened after that?

A. There was some fellow that came out of the door and started back to the garage with a gun in his hand and some one hollered at him, halt, he says, drop that gun, and at that time somebody shot from the window out of the office, and for about two seconds everything stopped still, you couldn't hear anything, and then it looked to me like everybody started shooting both ways.

Q. Shooting from both sides?

A. Yes.

Q. What did you do when the shooting subsided?

A. After they got through shooting they stayed there for about a minute and turned around and walked back to the gate, I turned around and came
903 out of there and went down some steps, went through the hall, and I seen Jim Williams and another fellow going toward the toilet, and the other man threw the gun in the wood pile and staggered and I think fell down there and Jim went on in the toilet. I came back through the front way, and I heard some of them on both sides of the house say, come out of there, come out of there, come on out, and they brought these two men out of the front way on to the street and stayed there a little bit, and then some of them went over to the house and made us all come out and asked us what we had to do with it, and I told him we had nothing to do with it, and then they sent the man that was shot, they sent him to the hospital, and sent Lem to the city jail.

Q. Did you go in that back yard?

A. I went back in the toilet after they came out of there and it was all over, to see what he had done with the gun, and I went in and there was a double barrel

shot gun sitting in the corner and picked it up and examined it, and one barrel had been discharged and the other one was cocked and not shot.

Q. What other gun did you find?

A. I didn't touch any more at all, I didn't
904 see any more than the one on the wood pile, I never touched it.

Q. Did you go into the toilet?

A. Yes.

Q. What did you see?

A. That one I picked up and examined.

Q. You didn't pick up the gun on the wood pile?

A. No.

Q. There was a gun lying in the wood pile?

A. Yes.

Q. What was the man that staggered and fell doing with that gun?

A. I suppose he put it right there.

Q. Did you see anybody go into the toilet with a gun?

A. Jim Williams.

Q. You say you were not a special officer of Bogalusa?

A. No, sir.

Q. Who were you working for at that time?

A. Nobody.

Q. Who are you working for now?

A. The Great Southern Lumber Co.

Q. Did you see any women in the yard?

A. No, sir.

Q. At the time the men drove up, did you see any women in the yard?

A. No, sir.

Q. And when they drove up and got out of the cars you left the gallery and went upstairs to the window of your room?

A. Yes, sir.

Q. Did you see—
A. No, no, I came out on the front gallery upstairs.
Q. On the front gallery, not the window?
A. Yes.

905 Cross Examination.

By Mr. Higgins:

Q. Mr. Watts, I show you a sketch supposed to be the scene of the shooting. (Counsel exhibits sketch). That is Columbia Road, this is the big two story building adjoining the property of Lem Williams, this is his office, this is his garage, this is his residence, and this is the yard. Now where were you at the time that these men drove to Williams place?

A. Is this the front of the house?
Q. Yes.
A. Sitting on the front gallery.

Q. The house has two front galleries, where were you sitting at the time these men drove up?

A. On the front porch here. (Witness indicating).
Q. The lower or the upper gallery?
A. The lower.
Q. There are two galleries?
A. Yes, top and bottom.

Q. How is that gallery constructed, is it a straight gallery?

A. Straight across the house.
Q. It runs the entire length of the front of the house?
A. Yes, sir.

Q. Is that true of both galleries, the upper and the lower?

A. Yes, sir.

Q. Now, where were you sitting?

A. Sitting on the front gallery.

906 Q. The lower gallery?

A. The lower gallery and when they drove up on the opposite side of the street and they began to come up I went to get my hat and instead of coming back down to see what they were doing I went out on the front gallery upstairs at the end of the gallery, on the gallery right to the side of the house.

Q. Is there an alleyway between the two story building and Williams property?

A. There is an alley between the two story building and Lem father's house, on this side (witness indicating) but not on this side. (Witness indicating).

Q. In other words, this house forms the fence line, the property line?

A. Yes.

Q. Now, where was your room in that house?

A. Right up in the corner.

Q. And where were you at the time you saw Jim Williams?

A. In the hallway upstairs going straight through.

Q. Where is that hall located?

A. Right through the center of the house.

Q. And the door?

A. The door, front and back.

Q. Did you go upstairs before you went to get your hat, or where did you go?

A. I went upstairs to get my hat, I seen Jim Williams after I came back downstairs in the hall

907 way looking through the back door, he was going toward the toilet.

Q. Well, that was when you left the front gallery?

A. No, sir, when I came downstairs after the shooting was over.

Q. Well, from the time the men drove up you were first sitting on the front gallery downstairs, then you ran to get your hat and—

A. And went out on the front gallery.

Q. And then where did you go?

A. I stayed there until the shooting was over and then came back downstairs.

Q. Where were you at the time you saw Jim Williams?

A. In the hallway.

Q. How far back in the house?

A. Middle ways.

Q. Now, what openings, if any, have you got in the lower story of that house in the rear?

A. Front and back doors.

Q. How far from Williams property line is that back door?

A. About twelve feet, the length of a room.

Q. Where is that toilet situated?

A. Right straight in front of the hall door.

Q. Is it on Williams property or on the property adjoining?

A. On the property that I was boarding at.

Q. How far from Williams property line?

908 A. From the dividing line you mean, about 12 feet.

Q. Were you downstairs or upstairs at the time you saw O'Rourke?

A. Which one was O'Rourke?

Q. I thought you named him?

A. I don't know any of them.

Q. Well, the man that you saw, that you said you thought was wounded?

A. He was with Jim Williams.

Q. Where were you at that time?

A. In the hall way.

Q. Were you downstairs at that time?

A. Yes.

Q. You say Jim Williams had a gun at the time you saw him?

A. Yes.

Q. What kind of a gun?

A. Double barrel breech loaded.

Q. And where did you say he went?

A. Right in the toilet.

Q. And when he came out, did he have a gun?

A. No.

Q. What did he have in his hands?

A. He had his hands up this way (witness indicating).

Q. Do you know who said, drop that gun?

A. No, sir.

Q. Could you see the men in the yard at the time you heard that conversation?

A. Yes.

Q. How many did you see?

A. I didn't count them, must have been 12 or 15.

Q. Were they armed?

909 A. Yes.

Q. What kind of arms did they have?

A. Seemed to be automatic guns, two or three had pistols, I believe.

Q. You say you saw no ladies at that time?

A. No.

Q. Did you see Mrs. Williams little boy?

A. After the shooting was over, I seen him, yes.

Q. Where was he?

A. He ran back in the yard down there and came back crying his papa was shot.

Q. Ran into what yard?

A. His father's yard.

Q. Where did he run from, from the street?
A. From the sidewalk.
Q. Did you hear any conversation between the special officers at the time they entered Williams property?
A. No, sir.
Q. Between the special officers and anybody that came from Williams father?
A. No.
Q. You never heard any?
A. No.
Q. Did you see Paul Le Blanc talk to anybody?
A. No.

Mr. Dufour:
Jules Le Blanc you mean.

Mr. Higgins:
Q. Did you see Jules Le Blanc talking to anybody?
A. No, sir.
Q. Where you were standing on the front gallery, could you see down into Williams yard?
910 A. Yes.
Q. You saw the man that had this gun, drop it when he was ordered to do so?
A. Yes.
Q. Drop it on the ground?
A. Yes.
Q. Where was he at that time?
A. About eight feet I guess toward the garage from the office.
Q. What kind of gun did he have?
A. It looked to be like it was a pump gun, pump shot gun.
Q. Who told him to put it down?
A. I can't say, one of the men in the crowd, I suppose.

Q. And he obeyed the order and put it down?
A. Yes.
Q. You are sure of that?
A. Yes.
Q. Did you notice where that man went after he put the gun down?
A. No, sir, I didn't, the shooting commenced about that time, and I never noticed where he went.
Q. Where did the man put the gun down?
A. Right down beside him. (Witness indicating).
Q. In the yard?
A. Yes.
Q. And then he went on—

Mr. Dufour:
He didn't say that.

A. I can't say he went anywhere, about that time the shooting started out of the office and then the shooting became general.
Q. What did he do with the gun that he put down?
A. Dropped it down immediately, outside.
911 Q. Did he have his hands on it?
A. No.
Q. He dropped it down on the ground, he didn't have his hands on it, he threw it down?
A. Not that I know of.
Q. That is what he did?
A. I say he threw it down, whether he picked it up again or not I don't know.
Q. He didn't stand the gun down and hold it by the barrel?
A. No, sir.
Q. He didn't stand the stock on the ground and hold the barrel, did he?
A. No, sir.

Q. Now you say the special officers made everybody in the boarding house come out?

A. All the men.

Q. All the men, and questioned you about the shooting?

A. No, sir.

Q. Didn't question you about the shooting?

A. Didn't ask anything about the shooting.

Q. They made you all come out though?

A. Yes.

Q. How far is it from the upper front gallery of the boarding house, to the door of Mr. Williams office?

A. Somewhere between 45 and 50 feet.

Q. Could you hear a conversation at that distance?

A. Sure.

Q. Did you hear Williams say anything?

A. No.

Q. How long after Williams was told to put down that gun was the shooting?

A. It was not over two minutes.

912 Q. You don't know who was being ordered to put that gun down, do you?

A. Nothing but the conversation alone.

Q. You said "Lem"?

A. (No answer.)

Q. Now did you see who fired the first shot?

A. No, sir.

Q. You didn't see the flash of the gun?

A. I did, yes, sir.

Q. You saw the flash of the gun?

A. Yes.

Q. Was this daylight or night?

A. Day light.

Q. Was the sun shining that day?

A. Well, I can't say whether the sun was shining in

the building or not, I don't think so, I couldn't see inside of it.

Q. Where did you see the first shot?

A. The shot came out of the window.

Q. Which window?

A. The window facing that street.

Q. That window? (Counsel exhibiting map to witness.)

A. This one.

Q. Was that window open or closed?

A. I think it was closed, and he shot through the glass, or punched the glass out with the end of the gun, I don't know which.

Q. You were satisfied, however, that the window was closed, the glass of the window was closed, and whichever it was, either pushed a gun through
913 the glass, or fired through the glass?

A. Either shot through the glass or punched the gun through it, I don't know which.

Q. This window, wasn't there a shutter on it made of boards?

A. No.

Q. It was glass?

A. Yes.

Q. Did you see anyboards on the window at all?

A. No.

Q. At the time this man was shooting or any any other time?

A. Since this thing occurred I think they nailed boards over it, I don't know, but it seems to me I seen nails on there.

Q. You are sure it was a glass window, and whoever fired either punched the glass out or shot right through the glass?

A. Yes.

Q. And you could see the form of a man in the office I suppose?

A. Yes.

Q. Did you see the man that was talking to Williams at the time he ordered him to put the gun down, put that gun down Lem, I don't want to hurt anybody?

A. Did I see the one who talked to him?

Q. Yes.

A. It was either Mr. Le Blanc or Mr. Macgee, I don't remember which, one of the two hollered to a man to put that gun down, the one that was talking to Mr. Williams.

914 Q. You recognized Mr. Le Blanc and Mr. Macgee?

A. Yes, they were there.

Q. How close were they to Williams office door when they spoke to him?

A. About twenty or twenty five feet.

Q. That was Jules Le Blanc?

A. Yes.

Q. Did you see any men in Williams yard? Did you see them. Just about the time the men came to the gate, the special officers came to the gate?

A. No.

Q. You didn't see any men in Williams yard at that time?

A. No, sir.

Q. Did you see Mrs. Williams leave the property at the time the special officers came into the yard?

A. No, sir.

Q. You were looking in that direction were you not?

A. Yes, sir.

Q. Did you see Jim Williams wife leave Lem Williams property at the time these special officers came along?

A. No, sir.

Q. You were looking in that direction at that time?
A. Yes, sir.
Q. Now, how long have you been working for the Great Southern Lumber Co.?
A. About two and a half years the last time.
Q. You are presently working for them?
A. Yes, sir.
Q. And what position do you hold?
915 A. Press moulder.
Q. Press moulder?
A. Yes, sir.

Re-Direct Examination.

By Mr. Dufour:
Q. When you started upstairs what happened?
A. I started upstairs immediately as they began to get out of the cars.
Q. And before they had come over to the gate?
A. Yes.

HAROLD H. WILCOX, witness being duly sworn and examined on behalf of the defendants, testified as follows:

Direct Examination.

By Mr. Dufour:
Q. What is your name?
A. Harold H. Wilcox.
Q. Where do you live?
A. Bogalusa, La.
Q. How long have you been living there?
A. Since 1909.

Q. What is your occupation at the present time?
A. Merchant.
Q. What certain line are you in?
A. General line.
Q. General merchandise business?
A. Yes.
Q. Do you own your own business?
A. Yes.
Q. How long have you been in that business?
A. Since March 1, 1910.

Q. You were a merchant in Bogalusa dur-
916 ing the year 1919?
A. Yes, sir.

Q. Have you ever worked for the Great Southern Lumber Co.?
A. Never have.
Q. Do you own your own house?
A. Yes.
Q. How long have you owned your own house?
A. About ten years.
Q. Married?
A. No, sir.
Q. Whom do you live with?
A. My mother.
Q. Your mother lives with you in Bogalusa?
A. Yes.
Q. Were you one of the special officers in the city of Bogalusa in 1919?
A. I was.
Q. Were you paid for your services?
A. No.
Q. You were a volunteer officer?
A. Volunteer.
Q. Did you respond to the signal for the assembling of the special officers on November 22, 1919?
A. I did.
Q. Where did you go?
A. City hall.

Q. City hall. What did you learn on arriving there?

A. Asked to go down and arrest Sol Dacus.

Q. Did you go with the officers to arrest Sol Dacus?

A. Yes, sir.

Q. What was the purpose in going there on that occasion?

A. To assist the regular police in executing the warrant?

Q. Did you go there to shoot anybody?

A. No, sir.

Q. Had you entered into any agreement to shoot and kill?

A. No, sir.

Q. Did you enter into any agreement to go
917 down and kill Lem Williams or anybody else?

A. No, sir.

Q. Had you responded to a similar signal on a previous occasion?

A. No, sir.

Q. You didn't go to the city hall?

A. No, sir.

Q. Why?

A. I didn't hear the signal.

Q. Did you, or did you not go on this date?

A. This date, yes.

Q. What happened after you left the city hall?

A. Got in our cars and came down to Lem Williams place.

Q. Well, then, just tell us in your own way just what happened?

A. Well, when my car was stopped just outside the gate on the west side of the street, Willis was in the front seat with me, and I don't remember who was in the back seat, and four or five cars got there about the time mine did.

Q. You were driving your own car?

A. Yes, sir, and we went into the yard and got about half way to Williams office and Gaines got out and started to the garage. Somebody, I think it was Wiley Macgee says, tell Lem Williams to come out here we want to see him and he went back in the office and came back out and says, Lem says, if you want to see him come on in, and we got within about 20 or 30 feet—

918 about 20 feet—from the office and Lem appeared with a pistol in his hands.

Q. You could see him?

A. Yes, sir, Wiley Macgee, says, Lem, lay down that gun we don't want to hurt you, we came to arrest Sol Dacus. He told him that two or three times and a shot came out of the office and within half a minute or a quarter of a minute the shooting was general on both sides.

Q. Are you sure the shooting came out of the office?

A. Yes, I was within 25 or 30 feet from there.

Q. How do you know, how could you tell it came out of the office?

A. Well, there was just one shot fired, the first shot naturally it came in this direction right to my left.

Q. Did you go into the office after the shooting?

A. No, sir.

Q. Where did you go?

A. Well, after the shooting was over a minute or two, after it was all over we went on out back on the street.

Q. Do you know Sol Dacus?

A. Yes.

Q. Did you see him that day?

A. Yes, that morning.

Q. Where was he?

A. Parading up Columbia Street, between two white men armed.

Q. Did you know who those white men were
919 at that time?

A. No, sir.

Q. Did you know Lem Williams?

A. Yes.

Q. What was his general reputation in the community for peace and quiet?

A. Bad.

Q. Why did you volunteer as one of the special police officers in the city of Bogalusa?

A. Well, I was a property owner, owned my own house, and I guess my property wouldn't be worth two-bits on the dollars had I wanted to sell it.

Q. What were the conditions existing there at that time?

A. Why they were terrible, terrible, anarchy prevailed.

Cross Examination.

By Mr. Higgins:

Q. I didn't quite hear that answer, you said something about property and twenty-five cents on the dollar?

A. I mean the town was in such a state of turmoil and anarchy. If I had wanted to see my property I don't think it would have brought me two-bits on the dollar.

Q. That is the reason why you got mixed up in the special police brigade?

A. We wanted to uphold the regular officers and try to bring about peace in the town.

Q. I know, but the pecuniary interest that you had in your property would be depreciation in
920 value if these conditions continued to exist, is that right?

A. Naturally.

Q. And that is what you had in mind?

A. Well, the conditions in Bogalusa prompted me to go in the Loyalty League.

Q. What was Lem Williams general reputation for peace and quiet prior to the time of the trouble the Unions had with the Great Southern Lumber Co.?

A. Well, it was bad.

Q. Bad before this Union started over there?

A. Yes.

Q. What was the general condition of the town at that time, have trouble over there?

A. What time?

Q. The time before the Union was organized over there?

Mr. Talley:

What Union do you mean?

Mr. Higgins:

Q. The Union Lem Williams was President of?

A. Well, he worked in the fire department there, and fire chief Sherman had some trouble, Lem says he fired him for stealing, I don't know what he had stole and then he gave wrestling matches over there, and in general his reputation was not very good.

Q. You say he had trouble with Mr. Sherman, who was connected with the Fire Department?

A. Yes.

Q. And Sherman accused him of stealing?

A. Yes.

Q. And Williams whipped him, is that right?

A. I didn't hear anything about that.

921 Q. You don't know anything about that?

A. No.

Q. Don't you know as a matter of fact that Williams whipped him with his fist?

A. Never heard of it.

Q. You heard the testimony here yesterday?

A. I heard you ask him the question and he said he hit him a lick.

Q. Hit him with his fist?

A. I don't know what he hit him with.

Q. Is that the only occasion that you know of that Lem Williams was in trouble?

A. Well, yes.

Q. And that is the basis of your reason why his general reputation is bad?

A. Yes.

Q. And you don't know that of your own personal knowledge, but from what someone else told you?

A. Well, it is generally understood there that he did these things, so naturally his general reputation would not be any too good.

Q. His general reputation wasn't any too good because he had a fight with Mr. Sherman, who said he stole gasoline, is that right?

A. (No answer.)

Q. Because he gave wrestling matches in town, is that right?

A. That is right.

Q. You are opposed to wrestling matches?

922 A. The kind that he gave.

Q. What kind did he give?

A. You had to pay for admission to see him.

Q. Did you expect to see a wrestling expedition or a bout for nothing?

A. I didn't attend any of them.

Q. I suppose you are opposed to boxing and wrestling are you not?

A. Not necessarily, no.

Q. Would you say that a man as a boxer or wrestler is a man of generally bad reputation?

A. No.

Q. What was the objectionable part of these exhibitions that Williams would give?

A. Why, just on account of the man's general reputation, his general reputation of what he dies, etc.

Q. I know, but what did you hear, you heard he had a fight with Sherman and you heard he was a wrestler?

A. Well, I heard he stole some fire hose or something while working for the fire department, and I heard he stole something from the city hall, I believe some gasoline.

Q. Is that the reason why he had a fight with Sherman?

A. I didn't say he had a fight with Sherman, that was brought out though.

Q. Did you ever hear of him shooting anybody?

A. No.

Q. Did you ever hear of him killing any-
923 body?

A. No.

Q. Did you ever hear of him being arrested for carrying concealed weapons?

A. No.

Q. You knew he was arrested for disturbing the peace on one occasion when they had some Union men coming over?

A. Yes.

Q. I mean some labor coming over on the train?

A. Yes.

Q. Did you have a gun that day?
A. The day of the trouble you mean, yes.
Q. What kind of a gun?
A. Shot gun.
Q. What was it loaded with?
A. Buckshot.
Q. You say you didn't go down there to shoot anybody?
A. No, sir.
Q. You didn't go down there for any trouble?
A. No.
Q. Did you have a warrant for the arrest of Lem Williams?
A. No.
Q. Did you have a warrant to go on his property?
A. No.
Q. You went down to arrest Sol Dacus, didn't you?
A. Assist the regular police.
Q. How many regular police did you have with you when you went there?
A. Well, I don't know how many there were, Wiley Macgee was one, I don't know whether he was a regular policeman or not, he was not on the regular force, he was a special officer, but there were volunteers
924 and paid ones, Wiley Macgee I guess was the only special officer that I know of that was paid.
Q. Did you have any previous experience as a policeman?
A. Me?
Q. Yes.
A. No, sir.
Q. The only reason you know where the shots came from was because of your judgment of sound?
A. It is.

Q. Which direction did you say that shot was fired from? (Exhibiting map.)

A. I was standing over here. (Witness indicating.)

Q. You were standing along here 20 or 25 feet from that window?

A. Yes.

Q. Did you see a gun jabbed through the window?

A. No.

Q. Did you hear the glass break?

A. No.

Q. Did you notice whether that window was open or closed?

A. It was open.

Q. Was it boarded up with planks or boards?

A. No.

Q. Are you sure of that?

A. Yes.

Q. Did you see a gun stuck out of the window, at the time of the shooting?

A. No, I didn't.

Q. And the first shot fired, was fired out of that window?

A. Yes, sir.

Q. Did it strike anybody over here?

A. I couldn't tell you that, but Jules Le Blanc was shot.

Q. Where was Jules Le Blanc standing at the time that shot was fired?

925 A. Just ahead of me about there (witness indicating).

Q. Are you sure Jules Le Blanc was not right here?

A. (No answer.)

Q. You are sure Jules Le Blanc was not 4 or 5 feet out in the yard on the outside, and 4 or 5 feet from the

garage door at that time, at the time the first shot was fired out of that window facing Columbia Road, of that office?

A. He was standing there some distance away, I was about 15 or 20 feet behind him and Wiley Macgee.

Q. In your opinion, there was a state of anarchy over there?

A. Yes.

Q. And you were a special officer?

A. I was.

Q. Did you report this to the U. S. Government?

A. No, I didn't report it to the U. S. Government.

Q. During the state of anarchy there was nobody killed?

A. I don't believe there were, I don't remember anybody being killed.

Q. Was anybody shot?

A. Not that I remember.

Q. During this state of anarchy were any of the regular officers of the city of Bogalusa wounded?

A. Not that I know of.

Q. Or killed?

A. Not that I remember.

Q. Were any of the special officers wounded or killed?

926 A. I don't remember of any being killed, no.

Q. As a matter of fact the only men that were killed or wounded during this state of anarchy were Lem Williams, Tom Gaines, Bouchillon, killed, and O'Rourke and Clay Richau were wounded, is that right?

A. That is correct.

Q. And they were all wounded and killed by the special officers of the city of Bogalusa, is that correct?

A. I don't know who killed them.

Q. You don't know who killed them?

A. No, sir.

Q. Did you see any shots fired while you were there?

A. Why there was general shooting on both sides, I couldn't tell who killed who.

Q. Do you suppose those men died a natural death?

A. They got shot of course, but I couldn't tell you who shot them.

Q. You couldn't name a particular individual, but don't you know as a matter of fact that the special officers who went there were the men that killed these men, don't you know that?

A. I can't say, there were some spectators over there, that is all I know.

Q. Did you see any spectators there with guns in their hands?

A. I was not looking for them, I was looking
927 at the office at that time.

Q. You kept your eyes on the office all the time?

A. I had my hands behind me.

By Mr. Dufour:

Q. Do you know whether any men were beaten up at that time in Bogalusa, during the time that these conditions were going on?

A. I don't remember any now, it has been so long ago, I don't remember.

By Mr. Higgins:

Q. You are one of the defendants in this case, are you not?

A. I am.

Continued to the following morning at 11 o'clock.

Thursday April 30, 1925.

All parties interested being present, the taking of testimony was this day resumed.

T. A. MAGEE, Recalled:

By Mr. Dufour:

Q. Chief Magee, you testified the other day about finding some weapons in Lem Williams' office when you arrived there on the day of the shooting. What did you do with those weapons?

A. I turned them over to the Coroner.

Q. Did you remove them from their place before the Coroner reached there?

A. I did not.

Q. When the coroner arrived there, were they in the same place that they were when you arrived?

A. Yes, sir.

Q. Have you one of those weapons that were in that room when you arrived there?

A. Yes sir; this gun, right here (Witness exhibiting gun).

Q. Is this one of the guns that was in there?

A. Yes sir; this is one of the guns.

Q. Where was that gun found?

A. By Bouchillon's side, on the floor, lying on the floor.

Q. Was it loaded?

A. It had been shot, and the shell—attempt-
929 ed to eject the shell, and this little catch (witness indicating) had slipped over the shell and left the empty shell in the barrel and the gun was hung up.

Offer: Mr. Dufour:

In connection with the testimony of the witness, we offer in evidence the gun identified by him.

Cross Examination.

By Mr. Higgins:

Q. Chief, do you know what caused these holes in there, in the stock of the gun?

A. Shot.

Q. Do you know what nicked that piece off of there?

A. A shot came through here, this side, busted it to pieces.

Q. The stock of this gun is hollow, is it not?

A. Yes, part of it is.

Q. What would you say was the origin of the shot that struck the stock of the gun on the right hand side?

A. The gun was evidently in this position (witness illustrating), hung up, trying to eject the shell; must have had it in this position (witness illustrating).

That is the gun Mr. Bouchillon had.

The Court:

Talk louder, please.

A. This is the gun Mr. Bouchillon had, and he must have had it in this position (witness illustrating).

Q. You don't know as a matter of fact that
930 Bouchillon ever had it in his hand?

A. No, sir; it was lying by his side.

Q. I just asked you the question, what was the origin of the shots that struck this gun on the right hand side of the stock?

A. It was not struck on the right hand side; it was struck at an angle.

Q. The right hand side of the stock?

A. The stock was in this position (witness illustrating).

Q. Going from the lower part of the stock towards the upper part of the stock, on an angle; of how many degrees?

A. I couldn't say how many degrees—in this position, you see (witness illustrating.)

Q. You don't know how many degrees; you wouldn't approximate it?

A. No. sir; I wouldn't attempt to say.

Q. Now the shots that struck it on the left hand side of the stock: what direction would it indicate those shots were going at the time it was struck?

A. Well, must have been about the same direction, the angle of the origin; all about the same thing.

Q. You think that was one load?

A. Yes, sir.

Q. Can you tell us whether that is a rifle shot, or what kind of shot?

A. Buck shot, it must have been.

931 Q. Can you tell me how many shots, in the stock of the gun, how many buckshot struck it?

A. Well, there are seven holes there.

Q. Chief, if this gun had been lying in this position (counsel indicating) in the office, the shot could have struck at the same angle without being—

Objection: Mr. Dufour:

I object, if your Honor please, that is a matter of argument before the jury as to whether or not something could have happened from the physical fact.

The Court:

The jury is as competent as the witness to determine that. That is a question of evidence.

Q. If this gun had been lying in this position, it would have been struck at the same angle?

Mr. Dufour:
Lying where?

Mr. Higgins:
Lying anywhere.

Mr. Dufour:
In the air?

Mr. Higgins:
Lying beside the door.

The Court:
You mean in a horizontal position?

Mr Higgins:
Yes; like this.

A. It wouldn't have been lying in that position, if it had been on a rack.

Q. Are all racks made alike?

A. I don't know, but they generally lie in
932 this position. (Witness illustrating.)

Q. Please lay it on the table in a position where it could have been struck at the same angle?

A. I can't say about that.

Q. You wouldn't venture to say that?

A. There was no table in the office.

Q. Was there a desk in there?

A. Yes, sir.

Q. Lying on the desk in that position, it could have been struck that way, could it not?

A. It depends on where it was lying.

Q. Now you have testified before that you got there after the shooting was all over. You didn't see Bouchillon with this gun in his hand, did you?

A. No, sir.

Q. All you know about this gun is that you found it in the office after you got there?

A. Lying by Bouchillon, alongside, on the floor.

Q. Near Bouchillon's body?

A. Yes, sir.

Q. You don't know who put it there of your own knowledge?

A. Not of my own knowledge.

Q. You don't know of your own knowledge whether Bouchillon ever discharged this gun?

A. Not of my own knowledge, no.

Q. Did you examine those cartridges?

A. Which cartridges?

Q. The ones that you took out of the gun?

933 A. Yes.

Q. How many did you take out?

A. There was one in the magazine, if I am not mistaken, and there was an empty shell in the barrel, hung up in the barrel, if I remember correctly there was but one left in the magazine and an empty shell in the barrell.

Q. What kind of shots were they?

A. Buck shot.

Q. Buck shot in the one you took out of the magazine?

A. Yes.

Q. You got that too?

A. No, sir.

Q. Who did you give it to?

A. I turned all the guns and cartridges over to the coroner.

Q. That is the last you have seen of it?

A. Yes, sir.

Q. You can't testify of your own personal knowledge whether this gun was discharged on November 22nd, 1919, can you?

A. No; I can't testify to that.

Q. You can't testify the magazine was ever loaded to its capacity with shells on that day?

A. No.

Q. You can't testify of your own knowledge that the shell that was hung up in there got hung up in there on November 22nd, 1919?

A. Only that the gun was freshly shot; I
934 know that.

Q. How do you know that the gun was freshly shot?

A. Well, you can tell by the barrel, by sticking your finger in the barrel.

Q. What would that give you?

A. Well, it would be black.

Q. Well, isn't that true of a gun shot two or three days before?

A. No, sir.

Q. What is the difference?

A. Well, the gun barrel would rust a little if it was not cleaned out shortly after it was fired.

Q. Has that gun barrel ever been cleaned out since then?

A. I couldn't say about that.

Q. The only reason why you think the gun was shot that day is because you were able to get powder out of it?

A. Well, if you know, if you are used to shot guns, if you know anything about fire arms, you can tell whether or not they have been shot recently.

Q. How many hours after a gun is fired would it rust?

A. I couldn't say about that.

Q. What is that?

A. I couldn't say about that; I don't know how long a time it would take.

935 DR. J. L. BROCK, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination:

By Mr. Dufour:

Q. How old are you, Doctor?

A. Forty-five.

Q. Are you a practicing physician?

A. Yes, sir.

Q. How long have you been practicing medicine?

A. Since May 1903.

Q. Of what institution are you a graduate?

A. Tulane.

Q. Where have you practiced your profession?

A. Franklinton.

Q. In the parish of Washington?

A. Washington Parish.

Q. What official position do you occupy in the Parish of Washington?

A. Coroner.

Q. How long have you been coroner?

A. I am going on my fifth term now.

Q. Terms of how many years each?

A. Four.

Q. So you have been coroner consecutively for twenty years?

A. Well, I was out one term, 1904.

Q. Were you the coroner of the Parish of Washington and discharging the duties of your office in November 1919?

A. Yes, sir.

Q. What was the scene of that shooting?

A. You mean where?

936 Q. Yes?

Q. [A.] Well, it was in Bogalusa and on what they call the Columbia Road; it was at a garage, as I understand, owned by Lem Williams, and a little office building—he had a little office building built on to the garage.

Q. When did you arrive at Bogalusa?

A. Sometime between 2:00 and 3:00 o'clock.

Q. Yeu were notified of this shooting?

A. Yes.

Q. Did you go to Bogalusa immediately upon receiving notice?

A. Yes.

Q. You got there some time between 2:00 and 3:00 o'clock?

A. Between 2:00 and 3:00 o'clock as well as I remember.

Q. Where did you go on arriving at the scene?

A. Well, I don't remember—I think—well, I believe I went to the City Hall, as well as I remember, I reported there—I don't know exactly— then they told me where the shooting was and I went immediately to it.

Q. After you got to the scene of the shooting, did you go into the office?

A. Yes, sir.

Q. Did you find any bodies there?

A. Yes.

Q. How many?

A. Two bodies in the office.

Q. Do you know whose bodies they were?

A. One of them was Lem Williams, and one was a man by the name of Bouchillon.

Q. What did you find in the way of fire
937 arms, if anything?

A. You want me to explain what I found after coming in?

Q. Tell us what you found in your own words?

A. You don't mind my standing up (witness stands up). There was a garage to the building lying north and south, and an office building built like this (witness indicating), and I came in (witness indicating) at the entrance here, and when I got there, why the office was in charge of a guard to keep people out of the place. Well, right in front of the door opening into this little office, Lem Williams lay, right in front of the door; there was an automatic pistol lying by him, and then there was a window in the west end of the little office building, and O'Rourke was lying right in front of this shed, like he had fallen right back from that window, and there was a gun—this is the gun (witness indicating)—it was lying by Bouchillon—you want me to go ahead?

Q. Tell us everything you found?

A. After I viewed those bodies—

Q. Were there any other fire arms?

A. Well, there was this gun, a rifle, and this automatic pistol, and then there was an army Colt—I believe they call them—you know that shoots—had clips, three in a clip, the cartridges—and then in this garage, running this way (witness indicating) you know,
938 north and south, why right inside this building, I would say midway between the door and the back window, this fellow Gaines lay, and there was a

single barreled shot gun lying beside him, then he had—it had been discharged and had a metal shell in it, and he had his overalls pocket full of shells, some of them had tobacco on them, and some of them that he had taken the shot out and put in like this, you know (witness illustrating) rolled around the barrel and put in the shells.

Q. Did you find any shells or cartridges in the office?

A. Bouchillon had his pockets full of shells, and there were shells in the drawer, the table drawer.

Q. Table drawer or desk drawer?

A. I won't be positive. It seems to me—anyway there was a drawer in there, table or desk.

Q. Were there any guns anywhere else that you found?

A. Well, in the back yard of the adjoining building, I believe there was a little hotel, a two story building, and in this back yard there was a gun, either behind or on—I don't know which—a pile of trash or boards in the back yard, and then there was another gun in the toilet. This gun, one barrel of it had been discharged and the other barrel was cocked, the trigger was pulled back.

Q. What kind of gun was that in the toilet?

939 A. Double barrelled shot gun, 12 gauge.

Q. Did you make a critical examination of the office?

A. Yes; I looked all over. I picked up some cartridges and empty shells in there. I looked all over it. I believe I neglected to say about a rifle—there was a rifle in there, another one, in this west window, some slats in front of the window.

Q. Which is the west window, which way was the west window facing?

A. The west window was facing Columbia Road, and the door entrance was on the south side, the south side of this little office building.

Q. What did you do with those weapons?

A. I kept them in my possession until— I didn't close this coroner's inquest, you understand, until late Saturday, just had called a special meeting of the grand jury for Monday, so I turned the guns and also the inquest papers over to them Monday morning when they convened.

Q. You mean you turned them over to the grand jury?

A. To the grand jury, yes, sir.

Q. And that was the last you saw of them?

A. Well, I have seen them around.

Q. Seen them around where?

A. The grand jury room. They had them before the grand jury I don't know how many times.

Q. You recognize that gun as the gun that
940 was—

A. The gun that was near Bouchillon. That gun was hung up, it wasn't working, this thing wouldn't work (witness illustrating), it was hung up, the shell had gotten hung up in it you see, you couldn't work it like that (witness illustrating). It seemed that the gun was hung up, you couldn't shove it forward or backward.

Q. When you say you closed your inquest on Saturday, what Saturday was it that you closed your inquest?

A. That Saturday, and then the Grand Jury met on Monday.

Q. Yes, but what Saturday, how long was that after the shooting?

A. The shooting was on one Saturday, and this was the following Saturday.

Cross Examination:

By Mr. Higgins:

Q. You say you got there about two or three o'clock?

A. Somewhere about two or three o'clock.

Q. Now of your own personal knowledge, do you know who put those guns in Lem Williams office?

A. No, sir, I don't know. As I said, there was guards on duty at the office when I got there and they said they hadn't allowed anybody to take anything out.

Q. Don't tell us what anybody told you.

941 I asked you if you knew of your own personal knowledge whether any one put them in there?

A. No, sir.

Q. Do you know of your own personal knowledge, as a matter of fact, whether Bouchillon ever fired that gun on November 22nd, 1919?

A. No, I don't know that of my own personal knowledge.

Q. You don't know of your own personal knowledge whether he ever had it in his hand that day?

A. No, I do not.

Q. How many men did you find dead there?

A. There was three, two in the office and then this fellow Gaines was in the garage.

Q. Did you find any wounded parties there?

A. This fellow O'Rourke was wounded; he was in the office; they carried him to the hospital.

Q. Did your investigation reveal anybody else wounded?

A. Well, I believe LeBlanc was wounded.

Q. How about Clay Richau; was he wounded?

A. Richau; I never did see Richau.

Q. Never got to see him?

A. No.

Q. Do you know as a matter of fact, he died in the Charity Hospital, in the city?

A. No, I don't know of my own personal knowledge whether he did or not.

Q. Where was Gaines shot?

942 A. Gaines was shot in the left side.

Q. How far up?

A. (Witness indicating.), Well, just about, I would say, possibly three or four inches below the nipple.

Q. What was he shot with, do you know?

A. Shot gun.

Q. What kind of shot?

A. Buck shot, I think.

Q. What was Lem Williams—where was his wound?

A. Lem Williams' wound was just below the left nipple (witness indicating).

Q. What was he shot with?

A. Shot with a shot gun.

Q. What kind of bullets?

A. Buck shot.

Q. What kind of shots was Bouchillon shot with?

A. Bouchillon; well, he had a wound, just one wound in the upper part of the lung and one that went clear through the arm. I can't say what he was shot with.

Q. What side of his body was the wound that was up here, you know, in the upper part of the chest?

A. Upper part of his chest; on his right side.

Q. On his right side; about how far up; will you indicate it on yourself?

A. Well, right along through here (witness indicating), right over the lung, one or two inches, just went through his arm and went clear through.

Q. How far up on his arm?

A. About midway between the elbow and the

943 shoulder, I would say.

Q. Those the only wounds Bouchillon had?

A. That is the only ones I recall.

Q. That wound was inflicted with buckshot, you say?

A. I wouldn't say that; I couldn't say what it was, whether it was buckshot or what.

Q. Did you examine O'Rourke's wound?

A. I examined him at the time—you understand I just looked looked at the wounds, just pulled the bandage back and just looked at it.

Q. Where was he shot—

A. I beg your pardon; you said "Bouchillon"; I was talking about O'Rourke. Bouchillon was shot in the stomach, and his watch, I remember very distinctly, some kind of shot hit his watch and he was shot in the stomach.

Q. You just said—

A. Oh, well, he was shot, you might say—well, I don't remember just exactly the location of the shots; he was shot in front, and then, as I say, some of the shot hit his watch.

Q. Hit his watch; must have hit him on the right side to hit him in the watch pocket?

A. Well, as I say, it seemed to come right from the front, the shot did.

Q. Do you know how many shots there were?

944 A. No, I don't remember how many shots, I can't recall just now how many.

Q. Did he have any other wounds besides that?

A. I don't remember any other wounds, no, sir.

Q. Now you were speaking about O'Rourke before when you described the wounds that were in the upper part of the chest on the right hand side?

A. Yes; O'Rourke is the fellow that was carried to the hospital?

Q. And he was also shot through the right arm?

A. The arm.

Q. And that was a buckshot wound too?

A. As I say, I don't know; I wouldn't say what his wound was.

Q. But you know Bouchillon's was inflicted by buckshot?

A. Yes.

Q. Now (counsel exhibiting map) that is Columbia Road, that is the two story building next door, this is Lem Williams' residence, this is the office and this is the garage.

A. Yes.

Q. These figures are not supposed to be absolutely accurate or anything; where did you find Lem Williams' body?

A. This door is in the wrong place; that ought to be down here, it should be right in front of the door, right here; you have the center of the building up here and the door is here.

945 Q. Where was his feet; lying this way?

A. Yes, sir; he was lying in the corner towards the door, his head backwards (witness illustrating).

Q. He was shot in the chest?

A. Shot in the chest.

Q. On the left side below the nipple?

A. On the left side below the nipple, and there was one wound I don't just recall—it was a wound that struck him right above here; that was a flesh wound, but this is the wound that caused his death.

Q. The wound on his head was on his left side?

A. As I say, that was just a flesh wound. The wound that killed him was the shot in the left breast.

Q. Now where did you find Tom Gaines' body?

A. Tom Gaines; the door, as I just stated here, this door in the little office building is here, and there is a

wide opening into this, the garage, and Tom, I would say Tom was about between this opening and the back, right along in here somewhere.

Q. Right along up in here?

A. Yes, right in here.

Q. How far up from this end?

A. Well, I should say, as well as I remember, about midway between this door and the back.

Q. Well, how many feet would you approximate that?

A. Well, let me see; that building, I suppose—well, I would say it was at least—oh, fifteen feet from
946 the door.

Q. From the door; how far from the window?

A. From the window; well, about—I would judge just—I would say—as I say, I think it was about midway.

Q. I know, but about how much in feet?

A. Well, as I said, it was about midway between the window and the door, and I said it was about fifteen feet from the door. That would put it fifteen feet from the window, as I said, I didn't take any measurements.

Q. You don't know whether he had been moved or not?

A. No, I don't know whether he had been moved or not.

Q. Now what is this office building constructed of?

A. Just a little building. I don't remember whether it was a frame building or a box building, just lumber.

Q. What is this garage built of?

A. Well, I think the same thing.

Q. Light constructed building, of wood?

A. Yes.

A. Did you examine the sides of the office building; the walls?

A. Yes, sir.

Q. What was their condition?

A. Well, there were shots in the walls; I won't say how many.

Q. Well, a good many or just a few?

A. Well, yes; there were several. As I said, I can't recall just how many or anything like that, but there was quite a few.

947 Q. Did you notice the door of the office building, the door that closed?

A. I noticed it had been closed.

Q. No; I don't mean the opening, but the door, what was the condition of it?

A. Well, I don't recall just now just what the condition of the door was.

Q. What was the condition of the window towards Columbia Road in the office building?

A. Well, that was—that window was—was—was—that window—it had gun shots, it had been shot with guns.

Q. Well, was the window open or closed?

A. As I said, it was just a window, any window that has a sash—it was boarded across, there was some boards nailed across this window.

Q. Let's get that window straight. Which window was that? (Counsel exhibits map to witness)?

A. That is the window. (Witness indicating.)

Q. This window right here?

A. This is the end of the building, that is Columbia Road out this way, and that window is at this end, and then this window as I recall; there was only three openings in the room, this door here and this window and this little window right here.

Q. Did you enter the yard with Wiley Magee?

A. Yes; I was in the lead.

Q. How many men did you see standing at the door of Lem Williams' office at the time you went in?

A. As I approached the place, I seen one man standing on the steps; as I entered the yard or premises, Mr. Williams was the only man I saw at that particular time.

Q. You saw no more than—

A. And later I saw his brother Jim Williams.

Q. Where did you see him, in the office?

A. In the office.

Q. You didn't see him outside?

A. No, sir, but I saw him outside after it was all over.

Q. I mean at the time you came into the yard?

A. No, sir; he was inside, using a gun.

Q. The time you and Wiley Magee came into the yard, you only saw one man standing outside?

A. And later on, a few seconds or a few minutes afterwards, I saw Jim Williams in the office too.

Q. I said, when you came in the yard; I am
729 not talking about a few minutes later.

A. I didn't see Mr. Williams when I entered the yard. I couldn't see him till I got in front of the office; he was inside the office.

Q. He wasn't on the steps?

A. Williams was not on the steps. He was inside the office.

Q. How large a man are you, Mr. LeBlanc?

A. I weigh 225 pounds and am a fraction less than six feet.

Q. And how large a man is Chief Magee?

A. Chief Magee is just a little bit heavier than I am. I am just about as tall as him.

Q. How large a man is Mr. Lindsley?

A. Well, there is Mr. Lindsley right there (witness indicating).

Q. Will you kindly state what your idea is?

A. Mr. Lindsley is a man who would weigh 175 pounds probably.

Q. How big a man is Bob Carson?

A. Bob Carson is built sort of out of proportion. It is hard to tell how much his weight is.

Q. Is he large or small?

A. Pretty good sized man.

Q. And how large a man is Wiley Magee?

A. Wiley Magee is what I should call a medium sized man, about in the neighborhood of 150 or 160 pounds, less than six feet all.

Q. How long had you been in Bogalusa
730 prior to the trouble?

A. I first went to Bogalusa, I think it was, in 1911.

Q. What business were you in?

A. When I first went there, I worked for the Great Southern Lumber Company for about two years, and about six or seven years I was in the automobile business there for myself.

Q. In what capacity did you work for the Great Southern Lumber Company?

A. Just a common laborer, that is, I belonged to the bull gang and I was a pipe fitter.

Q. How long had you known Lem Williams?

A. Well, that is pretty hard to tell. I have known Mr. Williams through the wrestling bouts we used to have around in there at the Y. M. C. A. I knew him that way. He was a wrestler.

Q. How many exhibitions did he give, do you know?

A. I couldn't tell. I didn't go to many of them.

Q. You say they were held at the Y. M. C. A.?

A. I couldn't say positively whether they were held there or not. I know there were some wrestling bouts, but whether it was there or down on Columbia Road, I couldn't say exactly.

Q. Did you attend some of them?

A. No; I just heard of some of those wrestling bouts; I knew he was wrestling, because afterwards I heard different people speak of him as a wrestler,
731 wrestling with him.

Q. Now what branch of the army were you in; the infantry?

A. Yes, sir; infantry.

Q. You had some experience in using a gun?

A. Yes.

Q. Rifle?

A. Yes.

Q. Any other kind of gun?

A. Just rifle, pistol, rifle and machine gun.

Q. Pretty good shot yourself, are you not?

A. Pretty good, yes, sir.

Q. You served as an officer on the city police force without pay, you say?

A. Yes.

Q. As a citizen volunteer?

A. Yes.

Q. Your reason for being that is because you say the mill stopped work and conditions were bad?

A. No; I said this: that at that particular time they needed all of us. While the mill was running they didn't need us, but when the mill shut down, that is when they needed us.

Q. Didn't these union men have to work for a living too?

A. I expect they did.

Q. You know they did?

A. I imagine so, but Williams had a position of his own, I understood, all the way through, he had a garage.

Q. And he was the president of this Union?

732 A. Yes, sir.

Q. A minute ago, you spoke about business conditions being bad?

A. I said they would be bad, the way things started, if they would have kept on going, I would have had to leave town.

Q. You mean have to close business?

A. Absolutely, and leave town.

Q. Due to the—

A. Prevailing conditions.

Q. Industries weren't working?

A. No, sir, with the conditions of Bolshevism and anarchy that was going on in the town.

Q. What is your definition of Bolshevism?

A. Oh, a Bolshevist is a man that don't listen to any orders or law, won't listen to reason.

Q. What is an anarchist?

A. An anarchist is a man that don't believe in government at all, I imagine.

Q. At the time of this trouble, do you know whether or not union men were working for the Great Southern Lumber Company?

A. No doubt there were some men belonging to the union that worked for the Great Southern Lumber Company, but I can't answer your question.

Q. Don't you know that the mill was shut down at that time?

733 A. I don't know whether the mill was shut down or not. Some part of it was going, I am positive. I was not connected with the Great Southern Lumber Company at all so I don't know what happened

over there. I know this much, they needed men, so they must have had something to do in there, because it was pretty hard to get anybody to go to work there, that is, anybody that was brave enough to go to work there and then live in the town.

Q. You were in business for yourself at that time, were you not?

A. Yes, sir.

Q. You have any capital invested in your business?

A. Capital invested?

Q. Yes.

A. Had to; can't carry on business without cash.

Q. I mean it was your own money?

A. Part of it was; I was in business with another man.

Q. Who was this other man?

A. Mr. E. R. Cassidy.

Q. Was he the gentleman who was acting mayor of the city?

A. Yes, sir; he was.

Q. In Mr. Sullivan's place?

A. Yes.

Q. And he is a brother of Mr. Jules Cassidy?

A. No, sir.

Q. Jack Cassidy, I mean?

A. Yes.

Q. Who was employed by the Great Southern Lumber Company?

A. Yes.

734 Q. In what capacity?

A. Who was?

Q. Jack Cassidy.

A. Mr. Jack Cassidy was superintendent of the Great Southern Lumber Company, assistant general manager.

Q. You delivered the message to the mill to have the whistle blown; is that right?

A. To the superintendent of the mill.

Q. Who gave you that message?

A. The chief of police.

Q. Mr. Magee?

A. Yes, sir.

Q. Didn't get that message from Mr. Lindsley?

A. The two of them were there together.

Q. Did you have a warrant for the arrest of Lem Williams that day?

A. No, sir.

Q. Did you have a search warrant to search his premises?

A. No, sir, not that I know of.

Q. You say there were fifteen or twenty special officers?

A. Yes.

Q. Were all of them armed?

A. Yes, sir.

Q. What kind of guns?

A. I couldn't say that. They all had arms. A police officer would be a foolish man if he went to perform his duty without some weapon.

Q. The reason why he carries a weapon is, if he has to use it, he can use it?

735 A. That is what it is on him for, I imagine.

Q. Now did you see Lem Williams when he came to the door of the office?

A. Yes, sir, I did.

Q. Which door did he come to (Counsel exhibiting map to witness)? This is Columbia Road, that is the residence of Lem Williams, that is the garage—turn it round—I want the jury to see it—and this is that two story building next door.

A. We entered here (witness indicating), and there is only one door in the office, this side door here, and he was inside and he came to this door.

Q. How close was Wiley Magee to Williams at that time?

A. I imagine some four or five feet, not any further.

Q. How far were you from there?

A. I was in this position, right in here (witness indicating).

Q. How far were you from him?

A. About five feet.

Q. You could see Williams very plainly, could you?

A. I saw Williams, and I passed on to get in this way, to come in and get the gun, to get the gun away from him.

Q. Why did you want to get the gun?

A. Well, if you was an officer going to arrest a man, you would try to remove all things that might cause you some trouble, wouldn't you?

736 Q. Did you take the gun from him?

A. No, I didn't.

Q. Why?

A. For the simple reason he got away and held the gun.

Q. He ran?

A. Well, he didn't walk.

Q. Now Williams came to the door, you say, within four or five feet from Magee?

A. No, sir; Williams was in the office when Magee got there.

Q. I say, Williams came to the door of his office?

A. Yes.

Q. And was fully four or five feet from Wiley Magee?

A. Couldn't have been much more.

Q. Did Wiley Magee have a gun?
A. Yes.
Q. What kind of a gun?
A. I think it was a shot gun.
Q. What kind of a gun did you have?
A. I had a 45 pistol.
Q. You had no other gun?
A. No, sir, no other gun.
Q. Where was Williams at the time he was shot?
A. In the office.
Q. I mean, was he in that door?
A. His feet were back from the edge of the door.

Q. You could see him plainly?
737 A. I saw him when I first walked up there.
Q. Do you know who shot him?
A. No, sir, I do not.

Q. I understand that the only warrant you had for the arrest of anybody was Dacus, O'Rourke and Bouchillon?
A. Yes, sir.
Q. You didn't have a warrant for the arrest of Gaines, did you?
A. Well, I don't know. We had three warrants. We had one for the nigger and two white men. Now the two white men, their names I don't remember.
Q. Now the man that you saw go into the garage, you subsequently found out was Tom Gaines?
A. That is what I heard. I didn't know him, but in the course of talking, I heard that it was Gaines that went in the office—I mean in the garage—but I didn't know Gaines.
Q. You had no warrant for Gaines' arrest, had you?
A. Well, I don't know. We had three warrants. I don't remember the names of the people we went to arrest.

Q. You didn't even find that out, and you were a special officer?

A. I wasn't going to make the arrest. I was just there to assist the officer in making the arrest. We were told the nigger had gone down in this place, and any man that started anything there would be a
738 fool, and for that reason I didn't even draw my gun from its scabbard. I know something about creating a riot, I was in a couple of them while I was in the army, never amounted to anything, but I know this you just need the scratch of a match to start something.

Q. You say any man starting anything would be a fool?

A. Positive.

Q. Why did you make that statement?

A. For the simple reason, I just figured it was like walking into a machine gun nest more than anything else.

Q. If Williams had started anything, it would have been like walking into a machine gun nest?

A. That is what I imagine.

Q. The shot guns and rifles that these other special officers had were naturally carried in such a position that anybody could see them; is that correct?

A. Positive.

Q. Now, when the shooting started, where did you go?

A. Where did I go?

Q. Yes.

A. Well, I couldn't go far. I was right there in front of the building.

Q. Did you go to cover or anything?

A. No, I did not.

Q. Where did you go?

A. I didn't have sense enough to do anything but stay out in the middle of the yard.

739 Q. Was any other special officer wounded besides yourself?

A. No, sir.

Q. And where were you shot?

A. In the right arm.

Q. Which part of the arm?

A. The biceps.

Q. Now how many men, special officers, went into Williams' yard?

A. Well, I couldn't tell you exactly. About fifteen or twenty of us went down. All of them went in the yard, and I was the first man and I didn't look behind me and I looked just in front of me all the way—you always keep your eyes in front of you.

Q. Were you expecting trouble?

A. No, but I would rather be on the safe side and see what is coming in front of me and not have it run into me in the back.

Q. You knew you were well protected at the back, I suppose?

A. Yes, sir.

Q. Where were you at the time you sent the man in to tell Williams to come out?

A. We were approaching the office, just as we entered the front gate from the side walk.

Q. You were in the Williams yard at that time?

A. We were walking in, approaching the office. I said it in a loud tone of voice, didn't holler, but loud enough for him to hear it distinctly from forty

740 to fifty feet away.

Q. You were looking for Bouchillon and O'Rourke and Dacus, were you not?

A. No, sir. We were looking for the men we had the warrant for. The nigger was the only one I really knew—I didn't even know him, but if I had seen some darkey back there I would have said that was the nigger, but the white men I couldn't tell.

Q. You went to arrest somebody you didn't even know the names of and you didn't have enough information to identify them.

A. I went to assist the officer making this arrest, that is all I did, and we went down there in a body, just like I said, and we had gotten reports from up and down and everywhere else that whenever we went down there there might be trouble.

Q. Those were general remarks, were they not?

A. Well, they were general remarks, in fact, we knew other people had been in fights of late, and we went down there in sufficient number, thinking it would warn any one that if we went down to make an arrest, we went down with the law in our hands. That is the way we did this. We had the warrants for arrest, and we went in there like any other officers would do to make an arrest, and we went in as peacefully
741 as anybody could go, and that is what we received when we got close enough to the place.

Q. Well, if you didn't have a warrant for the arrest of Williams, why was it you were asking for him?

A. I didn't want—I wanted to let Mr. Williams know what our object was, for the simple reason, if anybody came to my place that the officers were after, I would think they had a right to come in after him.

Q. You wouldn't like them to come on your property with shot guns, would you?

A. If they were officers of the law, I wouldn't care how they came, they had the right to look, the right to go anywhere, and I asked to be permitted to look for

the simple reason, if he didn't want to start anything I would make them do anything. A person should not be afraid of a gun if it is to be used for the right purpose in—

Q. What is the right purpose to use a gun for?

A. An officer of the law would use it in extreme circumstances to protect his own life.

Q. Would an officer of the law, or would you as an officer of the law, shoot a man who was charged with a misdemeanor?

A. No, sir, I wouldn't; I wouldn't be protecting my own life.

Q. Now you say Williams allowed you to come in, didn't he?

A. Williams didn't. This man that was standing at the office door said Williams said, "If you
742 want to see me, come in," but I didn't hear Williams say those words.

Q. Did you see who fired the first shot?

A. It came from my left, but I couldn't say who actually fired the shot.

Q. Came from your left?

A. From out of the building.

Q. Did you see any flash of the gun?

A. No, sir; there was not many flashes, it was all smokeless powder.

Q. You judged the direction the bullet came from the sound or what?

A. Yes, and the direction it hit me.

Q. Which way were you facing at the time you were shot?

A. I was facing the office.

Q. Where were you shot?

A. Right here (witness indicating).

Q. How far were you from the office at that time?

A. Some ten or twelve feet, I imagine.

Q. What calibre gun was it?

A. We couldn't exactly determine. It was a high power steel jacketed bullet, whatever it was, either a pistol or a rifle.

Q. You don't know who shot you, do you?

A. No; I couldn't say who shot me.

Q. Now, Mr. LeBlanc, were you struck by
743 the first shot, do you know?

A. The way it seemed to me like, I was struck by the first shot. At the same time, like I just said, I didn't exactly know when I was shot, in other words, when the bullet hit me I flinched, but I didn't know anything about it—the man behind me said he knew I was shot by the way I flinched.

Q. As a matter of fact then, you don't know just when you were struck, and really can't tell whether it was the first bullet that was shot?

A. From the time we were in there and from the amount of blood from my arm and my hand, it must have been right along about the first shot, for the simple reason my clothes was saturated with blood, and it takes some time for blood to trickle down from your arm and on to your clothes.

Q. But you can't positively swear you were the victim of the first shot, can you?

A. I wouldn't swear to it, no.

Q. You said you were very excited, didn't you?

A. Yes, sir.

Q. Do you know who turned off the water or turned out the lights—of your own personal knowledge?

A. No, I don't.

Q. All you know is they were turned out?

A. Yes, sir.

744 Q. You don't know whether that was due to trouble in the mechanism of the electric plant or what it was?

A. No more than what I heard.

Q. During this period of from October when you went in as a special officer to some time around the killing was your business good or bad?

A. It was about the same as at all times.

Q. About the same as all times?

A. Yes.

Q. You say you didn't draw your gun, Mr. LeBlanc?

A. I later drew my gun, yes.

Q. Which arm were you shot in?

A. My right arm.

Q. You say you went through the gate at the time Wiley Magee went in?

A. I was in front of him.

Q. Did you see anybody in Williams yard besides those men that you saw standing on the steps?

A. The lady folks were coming out there as we walked in.

Q. Who were they?

A. They were his wife and his sister, I imagine; I think, I am not sure.

Q. Did you notice whether or not Lem Williams little boy was there?

A. No, sir, I did not.

Q. You don't remember that?

A. No, sir; I don't.

Re-Direct Examination.

By Mr. Johnson:

Q. Mr. LeBlanc, with reference to the statement that you were excited, do you mean that you were excited when you went in?

A. No, no.

Q. When were you first excited?

A. I wasn't excited until the shooting began.

Q. How long did the shooting last?

A. Well, just a few seconds, I imagine. It is pretty hard for anyone to keep time in a place like that.

Q. Now, Mr. LeBlanc, when there is shooting on both sides by a number of men, could anybody tell who shot anybody else?

Objection: Mr. Higgins:

I think that is the opinion of the witness.

Q. I will put it in another form. Could you tell who shot anybody else?

A. I didn't get your question.

Q. Where there is shooting by a number of men from each side, as you have testified in this case, can you tell who shot anybody else?

A. Well, the way this happened, I am positive no one from the rear shot me; it was somebody in front of me shot me.

Q. That is what I am asking you, if you
746 could tell who shot you or who of your side shot anybody else?

A. Positively I was shot in front, because the bullet entered the front and came out of the rear, and the marks are there to show.

Q. But you can't name the man who shot you, can you?

A. No, sir.

Q. Can you name any man among your associates who shot Lem Williams, or Bouchillon, or anybody else?

A. No, sir, I can't.

Q. Did you go inside after the shooting, in the office building or in the garage?

A. No, sir, I didn't go in.

Q. You were shot?

A. I was shot.

Q. Did you look inside?

A. No, sir, I didn't. You want me to state where I was?

Q. Yes?

A. I backed off when this shooting was going on, I backed off. That threw me away from the door of the office and I couldn't see inside of it at all, and when it ceased. That is when I was run off to the hospital from in the yard.

747 DR. T. M. BRISTER, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Johnson:

Q. You are a practising physician, Doctor?

A. Yes.

Q. Where do you practice?

A. Bogalusa.

Q. I believe you are on the staff of the Bogalusa Hospital?

A. Yes, sir.

Q. Doctor, what is the capacity of that hospital?

A. Ordinarily seventy beds, but at times we put in more when it is necessary.

Q. For what is it operated?

A. To take care of sick folks.

Q. Is it operated for any particular interest or for all interests?

A. Anybody and everybody that comes along, we take them in.

Q. Now, Doctor, do you know who operates the Bogalusa Hospital; is it operated by any one interest or industry, or is it operated by all industries in Bogalusa?

A. Operated by the Bogalusa Hospital, as far as I know.

Q. How many attending physicians have you in the service of the Bogalusa Hospital?

A. He have six, all general practitioners, and one specialist.

Q. How long have you been connected with the Bogalusa Hospital?

A. Since 1914.

Q. You were then in Bogalusa, were you on
748 November 22nd, 1919?

A. Yes, sir.

Q. Do you recall the day on which L. E. Williams and others were shot in Bogalusa at that time?

A. Yes, sir.

Q. Doctor, where were you between the hours of 12.00 and 1.00 on that day?

A. At the hospital.

Q. It has been testified here by one or more witnesses that you were at the scene of the shooting. State whether or not that is true.

A. It is not.

Q. When did you first learn that any trouble had taken place?

A. When they telephoned for Dr. Lafferty to go down there, and about the same time they brought Mr. LeBlanc into the hospital; it wasn't but just a few minutes difference.

Q. Did they bring anybody else into the hospital?
A. Yes, Mr. O'Rourke.
Q. Who dressed the wounds of Mr. LeBlanc and Mr. O'Rourke?
A. I did.
Q. Where did you find the wound on Mr. LeBlanc?
A. On the right arm.
Q. Could you state from the character of the wound what had caused it?
A. Well, it was a bullet, whether or a pistol
749 or a rifle, I couldn't say.
Q. From the character of the wound, could you tell what kind of a bullet?
A. Yes; I judge it was a steel bullet.
Q. Could you tell anything about the calibre of the bullet, Doctor?
A. Perhaps a 32 calibre.

Cross Examination.

By Mr. Higgins:
Q. Doctor, is the Great Southern Lumber Company interested in this hospital?
A. Perhaps; I don't know, sir, I am working for it. I don't know who is interested in it.
Q. You are on the staff, are you not?
A. Yes, sir.
Q. Do you know who owns the hospital?
A. I couldn't say.
Q. Who is on the Board of Directors?
A. I couldn't tell you that.
Q. Well, what position on the staff do you hold?
A. I am one of the assistant physicians.
Q. How many years have you been in there?
A. I have been there in the hospital about ten years.

Q. Ten years, and you don't know who owns the hospital?

750 A. The Bogalusa Hospital; that is all I know.

Q. Well, do the employees of the Great Southern Lumber Company—are they treated at that place?

A. Yes, sir.

Q. Any other hospital over in Bogalusa besides that?

A. No, sir.

Q. Did you say you treated O'Rourke?

A. Yes, sir.

Q. Did he get well, or what happened to him?

A. No, sir, he died.

Q. How long after he was shot?

A. I don't remember now how long.

Q. How did you determine this was a 32 calibre bullet that LeBlanc was shot with?

A. By the size of the wound on his arm.

Q. You couldn't say it was not a 22 bullet?

A. Well, it was rather large for that.

Q. Did you recover the bullet?

A. No, sir, it went through.

Q. Where did you say you were between the hours of 12.00 and 1.00 on November 22nd, 1919?

A. At the hospital.

Q. Bogalusa Hospital?

A. Yes, sir.

Q. You usually spend your time at the hospital; is that a fact?

A. I stayed there.

Q. You live there?

751 A. Yes, sir.

Q. When was the first time you saw O'Rourke?

A. When they brought him to the hospital.

Q. Who brought him?

A. I don't know, sir, I don't remember.

Q. You say you were not in the vicinity of Lem Williams' place on the day of the shooting?

A. Oh, later in the afternoon, yes, sir.

Q. What time?

A. Oh after they brought those fellows up there and I had treated them, fixed them up and put them to bed.

Q. Whom did they bring first?

A. They brought Mr. LeBlanc.

Q. How long after that did O'Rourke arrive?

A. Well, I hadn't finished dressing Mr. LeBlanc's arm, when they told me they had him in the next clinic; I heard him hollering, and I went in there.

Q. How long was he in the hospital before you discovered he was there?

A. Oh may be ten minutes, just a few minutes.

Q. Why did you go to Williams' place that afternoon?

A. Well, for the same reason a great many people went; just drove down there.

Q. Just drove down there?

A. Yes, sir.

Q. You say you can't tell us whether or not the Great Southern Lumber Company has any interest in the hospital at all?

752 A. Well, I suppose they have.

Q. You don't know who is on the Board of Directors?

A. No, I don't know.

Re-Direct Examination.

By Mr. Johnson:

Q. Doctor, you stated that the hospital takes care of the men employed by the Great Southern Lumber

Company. State whether or not there are any other companies there whose companies the hospital takes care of?

A. N. O. G. N. Railroad, the General Box Company, the Bogalusa Paper Company, the Barrett Hardwood Company, the Sulphuric Acid Company and the Paper Bag Company.

Q. What about the Creosote Company?

A. Yes, sir, them too.

Q. In fact, Doctor—

A. All the industries in Bogalusa are taken care of at the hospital.

By Mr. Higgins:

Q. Where is the hospital located?

A. Well, just how do you mean?

Q. What street?

A. It is located on Avenue D.

Q. How far is that from the Great Southern Lumber Company Plant?

753 A. About four blocks, I think, three or four blocks.

At this point a recess was taken to 2.00 p. m.

After recess.

H. E. WILLIS, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. What is your name?

A. H. E. Willis.

Q. How old are you?

A. Thirty-seven.

Q. Where do you reside?
A. Bogalusa.
Q. How long have you resided there?
A. About fifteen years.
Q. Do you occupy any official position in Bogalusa?
A. Yes, sir, I am city engineer.
Q. How long have you been city engineer?
A. About nine years.
Q. Were you city engineer in November 1919?
A. I was.
Q. Were you a special police officer of the City of Bogalusa in November, 1919?
A. I was.
Q. Sworn as such?
754 A. Yes, sir.
Q. What was the signal for the assembling of the special police at that time?
A. There was a siren blown.
Q. The whistle on the lumber mill?
A. Yes, sir.
Q. Was it the siren whistle or the fire whistle?
A. It was the fire whistle.
Q. Did you have occasion to respond to that signal on November 22nd, 1919?
A. I did.
Q. Where were you when the whistle blew?
A. Well, as near as I can remember, I was up on one of the front streets and from there I went to the City Hall.
Q. Whom did you find at the City Hall when you arrived there?
A. I found Mr. Jules LeBlanc, and there were several others there—Mr. Wilcox and—
Q. Were there any public officials there?
A. Chief Magee was there.

Q. Anybody else, any other official?

A. Not that I remember.

Q. Was Mr. Lindsley there, Commissioner Lindsley?

A. Yes; I believe he was there.

Q. Now after the police assembled at the City Hall, where did they go?

A. We went to Columbia Road.

Q. To what place?

A. Mr. Lem Williams' garage.

755 Q. What did you go there for?

A. We were given a warrant, or rather a warrant was given to Mr. Wiley Magee to arrest Sol Dacus.

Q. What did you go there for?

A. I was a special officer and I was asked to go.

Q. What happened on arriving there, tell us what happened.

A. Well, as we got there, we got out of the cars and started in the yard, and as we went through the gate, there was a couple of ladies came outside, Mrs. Lem Williams and some one else, I don't know who.

Q. You knew her?

A. Yes, sir; that was the first intimation I had that there might be any trouble at all, and then as we got up a little further, Tom Gaines came out of the garage with a shot gun.

Q. Where did he come from?

A. He came out of Lem Williams' office into the garage.

Q. How close to the office were you at that time?

A. Well, I would say, probably thirty feet.

Q. Who was near you?

A. Wiley Magee and—well there were several of us.

Q. Now tell us what happened just at that time?

A. Well, as Tom Gaines came out of the office to go in the garage, Wiley Magee covered him with his gun and told him to drop his gun, but instead of dropping it, he held it by the barrel, right at his side (wit-
756 ness illustrating), and about that time Lem Williams jumped to the door with a gun in his hand and Wiley Magee covered him and told him three times to drop his gun, and the third time, why, there was a shot fired and the shooting started.

Q. Did Wiley Magee tell Williams what you were there for?

A. Yes, sir. When Lem Williams stepped to the door, the first thing he says is "What in the hell do you want," and Wiley says "I have a warrant for Sol Dacus."

Q. What did he say to him when he stepped in the door, his exact words as well as you can remember them?

A. Well, when he asked "What in the hell do you want," he says "I have got a warrant for Dacus. Drop that gun," and he repeated that three times.

Q. Where did the first shot come from?

A. Came from the office.

Q. How do you know?

A. Well, I was close enough to tell where the report came from, and I was in position I could see the men inside.

Q. How far were you at that time from the office door?

A. Well, I should say probably twenty feet, something like that.

Q. In front?

A. Yes, sir.

Q. What did you do after the shooting occurred?

A. I came around the side of the premises
757 out in front, met Mr. Lindsley, and he told me to stay at the gate and watch and see nobody went inside the premises.

Q. Did you go to the office, go in the office, after the shooting?

A. No, sir, I did not.

Q. Go to the door?

A. No, sir.

Q. You didn't see what was in the office?

A. I did not.

Q. Did you see Bob Carson there?

A. No, sir, I did not.

Q. Was he there?

A. No, sir; he wasn't there. As Mr. Lindsley brought me around in front, I was in position to see practically everybody that was there, and I didn't see anything of Bob Carson.

Q. Did you see him later?

A. Not that I remember.

Q. Did you have occasion to answer that signal on any other date?

A. Yes, sir, I think about two or three weeks before; they figured there was going to be a jail delivery and the siren whistle was blown at that time.

Q. Where did you go?

A. I went to the City Hall.

Q. What did you find there, was there any crowd there?

758 A. There was a crowd out away from there, no crowd right at the jail; there was a few special officers there.

Q. What became of the crowd that was there after the special officers reached there?

A. They dispersed, and that was all there was to that.

Q. When you went to Lem Williams' office that day, did you go there to commit any violence?

A. No, sir, none whatever.

Q. Any shooting?

A. No, sir.

Q. What was your sole purpose, what was your purpose in going there?

A. Well, I was requested, as a special officer, to go, in the first place, and I went to help to arrest Sol Dacus.

Q. Did you work for the Great Southern Lumber Company at that time?

A. No, sir.

Q. Do you work for them now?

A. No, sir.

Q. Did you ever work for them?

A. About twelve or fourteen years ago.

Q. Do you know what the general reputation of Lem Williams was for peace and quiet in that community at that time?

A. It had gotten to be pretty bad.

759 Cross Examination.

By Mr. Higgins:

Q. How long have you been City Engineer?

A. I judge about nine years.

Q. By whom were you appointed?

A. By the Commission Council.

Q. Who was on the Council at that time?

A. Well, as near as I can remember—well, I don't remember just who were on—there was Mr. E. J. Cassidy, Joe Regan, and—well, I don't remember the other two.

Q. How many men are on there?

A. Four.

Q. These men appointed you?

A. Yes, sir.

Q. You don't remember the names?

A. No, sir, I don't.

Q. Who is E. R. Cassidy?

A. He is the acting mayor—that is, was at that time.

Q. Is he related to Mr. Jack Cassidy?

A. Yes, sir.

Q. He is the general manager, I understand, of the Great Southern Lumber Company—assistant general manager?

A. Yes, sir.

Q. And he was acting in Mr. Sullivan's place as mayor of Bogalusa at that time?

A. Yes, sir.

Q. How did you know what this signal was, of blowing the whistle?

A. Well, that was the signal that had been
760 adopted to use for calling the special officers.

Q. Who gave the signal to you?

A. Well, I don't remember whether it was Mr. Jules LeBlanc or Mr. Lindsley.

Q. Where were you to meet when you heard that whistle blow?

A. At the City Hall.

Q. Do you remember anybody else that met at the City Hall besides Chief Magee and yourself?

A. Well, there was Mr. Wilcox; I remember him because I rode in his car.

Q. Mr. Wilcox' car was used?

A. Yes.

Q. To go where?

A. To go to arrest Sol Dacus.

Q. Which Wilcox is that?

A. That is Mr. H. H. Wilcox.

Q. Is it Harold Wilcox?

A. Yes.

Q. Did you have a warrant for the arrest of Williams?

A. Did I have what?

Q. Did you have a warrant for the arrest of Lem Williams?

A. Not that I know of.

Q. Did you have a search warrant to go on his property?

A. Well, I couldn't say as to that.

Q. Did you have a gun with you when you went?

A. Yes, sir.

Q. What kind?

A. Shot gun.

761 Q. What kind of bullets were you using?

A. Well now, I couldn't say. It was a police gun. I don't know what kind.

Q. Was it your own gun?

A. No, sir, it was not.

Q. Who furnished it to you?

A. It belonged to the police department.

Q. Furnished by the City of Bogalusa or who?

A. Yes, sir; by the city, it was a regular police gun.

Q. Do you know whether you were using buck shot or not?

A. No, sir; I can't say.

Q. You don't know anything about these warrants you had, do you?

A. No, sir; not a thing.

Q. You don't know what these men were charged with, do you?

A. No, sir, I don't.

Q. How far were you from the door—when you got to Lem Williams' place, did you go in?

A. In the building?

Q. No; in the yard?

A. I did.

Q. With whom did you go in?

A. I don't remember exactly; I judge there was ten or twelve men.

Q. Well now, were you in the front or were you in the back?

A. Well, I was kind of to one side.

Q. How close were you to Wiley Magee?

A. I don't remember exactly, but not far.

762 Q. Who was in the lead?

A. I was kind of off to the side of Wiley Magee, a little to the back of him.

Q. Who was in the lead as they went in?

A. Wiley Magee and—well, I don't remember—four or five.

Q. Did you see any men standing around the office door of Lem Williams?

A. No, I didn't. Tom Gaines was the only man I saw to start with.

Q. He came out of the office?

A. Out of the office and into the garage.

Q. As you entered the property, you didn't see any one standing at Lem Williams' door?

A. Not that I remember.

Q. Well, you were there?

A. Yes, sir, I was there.

Q. You don't remember whether you saw anybody or not?

A. No, sir, I don't.

Q. You remember seeing Mrs. Williams and her sister coming to the door?

A. Yes, sir.

Q. You don't remember whether you saw anybody standing at that office door or not?

A. No, sir, I do not.

Q. How close were you to the office door when Gaines came out?

A. Well, I would say probably thirty feet,
763 something like that.

Q. And the next party you saw come to the door of Williams' office, was Lem Williams himself?

A. Yes, sir.

Q. Now, how far were you standing from the office door at that time?

A. Well, I judge at possibly twenty feet.

Q. I show you what purports to be a sketch of the place where the killing is supposed to have taken place. This represents Columbia Road, this is the two story building next door, this is the property of Lem Williams, this is the office, this is the garage and this is the residence. Now where were you standing in the yard at that time? (Counsel hands witness sketch and witness examines same.)

A. About in here somewhere. (Witness indicating.)

Q. You say about twenty feet from the office door?

A. I judge about twenty feet.

Q. When Williams came to the office door, could you see him?

A. Yes.

Q. You could see him very plainly?

A. Yes.

Q. There was nothing to intercept your view at all?

A. Not a thing.

Q. You didn't have anything in front of you?

A. Not a thing.

Q. What did Mr. Wiley Macgee have in his
764 hands at that time?

A. Well, I don't remember, he had a gun.

Q. Do you know what kind of gun?

A. I can't say.

Q. Do you know whether or not—What did Mr. Jules Le Blanc have in his hands?

A. I don't remember whether he had a shot gun or pistol, or what he had.

Q. Who else was with Wiley Macgee as he proceeded up to the office door?

A. Well, I don't remember, there was about, I judge about twelve men that went in and I can't say just what their respective positions were after they got in there.

Q. Were all of these men armed?

A. I can't say as to that.

Q. About how many of them were armed?

A. That is something else I don't know.

Q. You know that you were armed?

A. Yes.

Q. You know that Wiley Macgee was armed?

A. Yes.

Q. But you don't know whether Jules LeBlanc was armed or not?

A. I couldn't say as to what kind of gun he had, whether pistol, shot gun, riffle or what, they were all supposed to be armed that were there.

Q. Were all of these arms kept at the city
765 hall?

A. Yes, sir.

Q. And that is where everybody got their arms?

A. Well, I won't say all of them, but the majority of them did.

Q. Well now, where did you get these automobiles from?

A. They belonged to different individuals that answered the call. I didn't have a car at that time.

Q. Was the LeBlanc car used, do you know?

A. Not that I know of.

Q. Who furnished these cars, if you know?

A. The different individuals that happened to own a car.

Q. Can't you name them?

A. No, sir, I can't.

Q. You stated that as Mrs. Williams and her sister came out of the yard, that was your first intimation of trouble, now why did you say that?

A. Well, I couldn't see why they would be leaving the premises, unless they figured there was going to be trouble.

Q. You don't grant them a right to come out of their own property?

A. Well, yes, but I didn't feel that there was any special reason at that time.

Q. Didn't you just say that all you men were armed that were going into the place at that time?

A. They were.

766 Q. You didn't figure that was a sufficient reason for those women wanting to get away?

A. Well, if there had been any chance of trouble, I figured she was in a position to know whether there was going to be any trouble or not. We went there without any idea of any trouble.

Q. You went there without any idea of trouble, but you were well prepared for it if necessary?

A. Yes, sir, if it should come.

Q. Was there any special reason why Wiley Macgee led the force of men on that place?

A. Nothing more than he had the warrants.

Q. Was there any reason why he should have been given these warrants?

A. Well, not that I know of.

Q. Well, Lindsley was Commissioner of Public Safety, was he not?

A. Yes, sir.

Q. He was supposed to be in charge of that right?

A. He was in charge of the Police Department, as to that part of it, why I can't say.

Q. You don't know whether he was in charge of the squad of special officers or not, do you?

A. Mr. Lindsley was there.

Q. Did you have a warrant for the arrest of Tom Gaines?

A. Not that I know of.

Q. Was Gaines in any way pointing his gun toward you men at the time you ordered him to drop
767 it?

A. Well, I didn't notice, when Wiley Macgee covered him was the first time I noticed the gun.

Q. Why did Wiley Macgee cover him?

A. Well, he was coming out of this office with a gun.

Q. With a shot gun?

A. Yes, sir.

Q. Did he point it at Wiley Macgee?

A. No, but he was headed into the garage with it.

Q. Is that against the City Ordinance of Bogalusa?

Mr. Dufour:

I object, that is calling for the opinion of the witness.

Mr. Higgins:

He is a special officer, he ought to know something about the law.

Mr. Dufour:

No, if you are a special officer, you are not supposed to know anything about the law.

Mr. Higgins:

That is very correct.

The Court:

He can state if he knows there was an ordinance of that kind.

By Mr. Higgins:

Q. Answer that question, was there a city ordinance against having a shot gun?

A. I can't say.

768 Q. The only reason why Wiley Macgee covered Tom Gaines was because Tom Gaines happened to have a single barrel shot gun in his hand?

A. Well, I don't know what Wiley's motive was, but when a man is going into a place of concealment with a shot gun, you will naturally use some precaution.

Q. I am not asking you what was in Wiley Macgee's head, I am asking you—

Mr. Dufour:

You are asking him if the only reason why Wiley Macgee covered Gaines was because Gaines happened to have a gun in his hand, that is just the question you did ask him.

Q. You didn't see Gaines point this gun at Macgee did you?

A. No, sir.

Q. Now, when he ordered him to put the gun down, you say he stood the stock of the gun on the ground and held it by the barrel and told him to come and get it?

A. No, I didn't say I heard him to say come and get it, but I saw him drop the gun at his side and hold the barrel.

Q. And that was the position the gun was in at that time?

A. Yes, sir.

Q. Then what happened?

A. That is when Lem Williams stepped to
769 the door with his gun and asked Wiley Macgee what in the hell do you want.

Q. Are you sure that was the exact language he used?

A. Yes, that is the words he used.

Q. And what did Wiley Macgee say?

A. Wiley says I have a warrant for Sol Dacus, put that gun down, and repeated that three times, and the third time somebody made a shot apparently with a riffle, as near as I could tell.

Q. You say he repeated three times, put that gun down?

A. Yes.

Q. Repeated that three times?

A. Yes.

Q. And did Williams put the gun down?

A. No, sir, he didn't, not that I know of, they started to shooting at that time.

Q. At that time the shooting started?

A. There was a shot made from in the office, and when that shot was made why the shooting started.

Q. Macgee said to Williams at the time Williams appeared in the door—what kind of a gun did he have in his hands?

A. As near as I could tell it was an automatic.

Q. What kind of an automatic, a pistol or shot gun?

A. Pistol.

Q. The shooting started immediately at the time that Wiley Macgee ordered Williams, who appeared
770 in the door with an automatic pistol in his hand, having ordered Williams to put it down, having ordered him three times, is that correct?

A. After the shooting was made in the office, from the office.

Q. Was the order given to put down the gun before the shot was fired or after?

A. He said that three distinct times before there was any shooting, and about the time he said it the third time it was when somebody made that shot and the shooting started.

Q. And you say Williams didn't put down his gun?

A. No, sir.

Q. Now, how do you know this shot came from inside of the building?

A. Well, I was up close enough so I could hear the report and also in position where I could see pretty well the men outside.

Q. You couldn't say whether or not Jules LeBlanc had a shot gun or pistol, could you?

A. Well, I expect I could, I couldn't tell you really what any of the men had.

Q. Did you see the flash of the fire from the first shot?

A. I did not.

Q. Do you know in what direction the gun was pointing at the time that shot was fired?

771 A. I do not.

Q. The only reason why you said the shot was fired from the inside was by your judgment of sound, is that correct?

A. That is right.

Q. In which direction were you looking at that time?

A. I was looking toward the office?

Q. Do you know whether or not they had men stationed around this property as a matter of surrounding it, special officers?

A. No, sir, I can't say.

Q. Whom did you see shooting among the special officers, if anybody?

A. Not any of them.

Q. You didn't see any of them shoot?
A. No, sir.
Q. Do you know whether or not they fired any shots?
A. I really can't say.
Q. Did you run or did you stay there?
A. I tried to get out of there.
Q. Now, how large a man are you, Mr. Willis, how much do you weigh?
A. About 190 pounds and some odd.
Q. How much did you weigh in 1919, do you know?
A. No, sir, I can't say.
Q. How large were you then, how tall?
A. I presume the same height I am now.
Q. Were you as heavy as you are now?
A. I don't think quite.
772 Q. How old did you say you were?
A. Thirty-seven.
Q. At that time you were 31?
A. I judge so.
Q. You didn't go into the office after the shooting?
A. I did not.
Q. You didn't see Bob Carson?
A. No, sir.
Q. You said something about having heard this signal blown on one previous occasion when labor was coming to Bogalusa. For whom was that labor?
A. Well, I think it was for the Great Southern Lumber Co.
Q. And this whistle was blown on that occasion for what purpose?
A. The police had made some arrests previous to this and they were going to make a jail delivery.
Q. Was that on the same day as the jail delivery, or a previous occasion?
A. That was on the same day as near as I can remember.

Q. The jail delivery happened on the same day that the whistle was blown for the purpose of protecting labor that was coming to the Great Southern Lumber Company is that correct?

A. The whistle was blown on account of the jail delivery, these men were congregated at that time to make a jail delivery, there were two or three of these men in jail.

Q. Alright. Now you said the whistle was
773 blown on one occasion when labor was coming to the Great Southern Lumber Co., isn't that correct?

A. That was on this same day.

Q. Were there two signals blown?

A. No, sir, only one.

Q. Was the signal blown for the purpose of preventing a jail delivery, or was it blown for the purpose of—

A. Preventing a jail delivery, they figured on getting these men out of jail in order—

Q. Wait a minute, do you know that of your own knowledge?

A. No, sir, I do not.

Q. Then don't tell us anything you don't know?

A. (No answer.)

Q. You don't know as a matter of fact, of your own knowledge whether Dacus was at Williams' place or not, do you, except what somebody told you?

A. Yes, sir, it was reported.

Q. Did you see Dacus there that day?

A. I did not.

Q. You didn't see Lem Williams at the time he was shot, did you?

A. No, sir, I did not.

Q. Do you know where his body was found?

A. No, sir, I couldn't say.

Q. (Counsel exhibiting map to witness). You say Lem Williams was standing in this office door at the time Wiley Macgee was standing where?

774 A. He was right in there I should say (Witness indicating).

Q. How far were you from the office door?

A. Well, I judge ten or fifteen feet, something like that.

Q. Wiley Macgee was ten or fifteen feet from the door?

A. Yes, sir.

Q. Sure of that?

A. Well, I am not sure, but I would say approximately.

Q. Williams was like in this door at the time of the shooting, when it started?

A. Yes, sir.

Q. Did you see a man come from Williams' office and speak to Jules LeBlanc, stating that Williams said for them to come in?

Mr. Talley:

Just a minute, if the Court please. That is certainly not crossing anything the witness has stated and under the rules of the Federal Court we cannot go beyond the Direct Examination.

The Court:

For the purpose of testing his memory and means of observation, I suppose it is admissible, I will let him answer it.

Mr. Talley:

I reserve a bill.

By Mr. Higgins:

Q. Did you see or hear Jules LeBlanc summons a man who was standing at Lem Williams door as you came in the gate and was in Lem Williams' property?

A. Not that I remember.

775 Q. You don't remember. Do you remember whether or not the man that is supposed to have been summoned by Paul LeBlanc—Jules LeBlanc, came back and said Williams said to come in?

A. No, sir.

Q. You were not there?

A. I was there, but I don't remember that.

Q. The only conversation you remember took place between Wiley Macgee and Lem Williams, near Lem Williams' office door?

A. Yes, sir.

Q. And that was that he had a warrant for Dacus?

A. That is it.

Q. And you didn't see Dacus there?

A. I did not.

Q. Did the special officers escort the labor from the train to the mill?

A. Did they escort them?

Q. Yes, did they?

A. They did, yes, on one occasion—a special officer didn't, the police officers did.

Q. Well, who were the police officers?

A. Well, I don't remember, I think Johnnie Branch was one of them.

Q. Any others?

A. I don't remember.

776 M. D. STEPHENS: witness, being duly sworn and examined on behalf of Defendants, testified as follows:

Direct Examination:

By Mr. Dufour:

Q. What is your name?

A. M. D. Stephens.

Q. Where do you live?

A. Bogalusa.

Q. How old are you?

A. Thirty-four.

Q. How long have you lived in Bogalusa?

A. Ever since 1909.

Q. What is your occupation?

A. Manager of the International Harvester Company's business there for the last nine years.

Q. How long have you been Manager of the International Harvester Company?

A. Nine years.

Q. Did you serve as a special officer in the city of Bogalusa in October and November 1919?

A. I did.

Q. Were you on the city pay roll?

A. Yes, sir.

Q. What pay did you get?

A. I believe it was $103.00 a month or $112.00, I forget which.

Q. What was your beat at that time?

A. Well, principally the Southwestern portion of Bogalusa.

Q. Were you on day duty or night duty?

A. Day duty.

777 Q. Do you recall the blowing of the fire whistle of the Great Southern Lumber Company on November 22, 1919?

A. Oh, yes.

Q. Did you have an instructions to respond to that whistle?

A. I did.

Q. What were those instructions?

A. Well, the instructions were when that whistle blowed, it was calling all of the police together.

Q. Where did you go?

A. To the city hall.

Q. When you reached the city hall on that occasion, who did you find there?

A. I found Mr. Lindsley, Chief Maxgee and a few of the regular policemen and several special policemen.

Q. Were you told what the purpose of assembling the special police was?

A. Yes.

Q. What?

A. That two men had been marching with Sol Dacus—

Mr. Higgins:

Just a minute, I object.

The Court:

Just state what the condition was that made it necessary to call in special police.

By Mr Dufour:

Q. For what purpose were you assembled?

A. To go and arrest Sol Dacus, Bouchillon and O'Rourke.

Q. Do you know why they were to be ar-
778 rested?

A. I suppose dangerous characters.

Q. I don't mean the charge, but were there any warrants out for them?

A. Yes, sir.

Q. Who had the warrants?

A. Mr. Wiley Macgee.

Q. Who went to effect that arrest?

A. I don't know just who all were in the bunch, but there were several.

Q. Do you recall them?

A. Mr. Macgee and Jules LeBlanc were the men that had the warrants.

Q. Did you go with them?

A. Yes, sir.

Q. Was Mr. Lindsley there?

A. I saw Mr. Lindsley just after it was all over, I don't know whether he was in the first crowd or not.

Q. In whose car did you ride?

A. I believe Mr. Gilbert and myself were together.

Q. What happened on arrival at Lem Williams' place?

A. Well, when I got there I was in one of the last cars to get there and when I got there, there were some people in the yard already, I don't know just who now, except Jules LeBlanc and Wiley Macgee, and they were approaching his office, and when I got there, I stopped just outside the fence right in front where I could have a good observation.

Q. Where did you go from there?

A. Well, I stopped right there until immedi-
779 ately after the shooting when I went back in and helped to bring O'Rourke out.

Q. Did you hear a conversation between Macgee and anybody else?

A. I did.

Q. What did you hear?

A. I heard Macgee tell him to put that gun down, he didn't want to hurt him, he had a warrant for the negro.

Q. Do you know who he was talking to?

A. No, sir, I couldn't see who was in there, but I did see Lem Williams.

Q. Could you see in the doorway?

A. No, sir I couldn't see in the doorway.

Q. Why?

A. Because the door opens, the way the office was built there where I was I couldn't see right in the front door.

Q. Did you hear the first shot?

A. Yes, sir.

Q. Where did it come from?

A. From the office.

Q. You are sure of that?

A. Yes, sir.

Q. What did you do immediately after the shooting was over?

A. Well, as soon as the guns ceased, about the time they ceased, I started in there after O'Rourke, O'Rourke came out of there, he got out of the office somewhere back into the other man's yard, got over the fence right by the corner of the office, and when he did that someone shot him, I seen him stumble over and fall
780 and I backed around there and picked him up and helped bring him out.

Q. Did you find him there?

A. Yes, sir.

Q. Where was he?

A. Back of that hotel in the back yard.

Q. Near the office?

A. Yes, right up close to the office.

Q. Where was his gun?

A. He had dropped it in the wood pile.

Q. How near was it to the wood pile?

A. Why he was stumbling around I guess, he was eight or ten feet of the wood pile when I found him.

Q. Did you see any other gun back there?

A. No, sir, I never saw but one back there, back in this part of the yard.

Q. Did you go back to the toilet?

A. Not clean to the toilet, no, sir.

Q. Did you see any guns back there?

A. In the toilet, no, sir.

Q. You only saw O'Rourke's gun in this—

A. In this particular place.

Q. Did you go into the office?

A. Yes, sir.

Q. Did you see any guns in there?

A. Yes, sir.

Q. What guns did you see in there?

781 A. One twenty gauge pump shot gun— I am sure it was a twenty— I am almost sure but not positive, twenty gauge shot gun, it was a pump shot gun and there was a pistol and a single barrel shot gun and there was another, I don't know whether it was a rifle or what.

Q. You saw those guns in the office?

A. Yes, sir.

Q. That was immediately after the shooting?

A. Yes, sir.

Q. How long after the shooting, say?

A. Well, I guess some eight or ten minutes, something like that, just as soon as I came out with O'Rourke, I went back in there.

Cross Examination:

By Mr. Higgins:

Q. What business did you say you were in during 1919?

A. During 1919 I was Manager of the International Harvester Company in the latter part, and also employed by the city of Bogalusa.

Q. In what capacity were you working for the Harvester Company?

A. Manager of the local branch.

Q. Any particular department or the whole business?

A. Well, the purchasing department.

Q. You were also a policeman at that time?

A. Yes, sir.

Q. How much time did you have to spend at your office as Manager?

A. I was not required there, the labor trou-
782 ble had shut down everything and they had run the men off.

Q. Oh, I see. You were not working at that time?

A. The only thing I had to do was to see that the lumber didn't disappear from the yard, at that particular time after the labor had shut down everything.

Q. You say lumber?

A. Sure.

Q. In whose yard?

A. In the International Harvester Company's yard.

Q. That is not a lumber business, is it?

A. Yes, sir, you buy lumber.

Q. From whom?

A. The Great Southern Lumber Co. and other people too.

Q. Were you in the contracting business during that time?

A. Yes, sir, we had a contract to buy lumber from the Great Southern Lumber Company.

Q. In addition to that you were acting as special officer for the city of Bogalusa?

A. Yes, sir.

Q. How many hours a day did you have to work?

A. Well, my working hours were twelve to twelve.

Q. Twelve noon to twelve night?

A. And of course, I worked any time they needed me.

Q. You didn't have any particular beat that you had to control?

A. No, no particular beat, but principally I had charge of the police business in the southwest
783 corner of Bogalusa.

Q. Did you see those warrants that day?

A. Yes, sir, I saw that Dacus warrant.

Q. What was he charged with?

A. Well, I didn't have the warrant in my hands, I saw the paper though, the warrant was handed to Mr. Macgee, saying here is the warrant for Dacus.

Q. Do you know what he was charged with?

A. No, sir, I do not.

Q. You never read it?

A. No, sir, I never read it.

A. As far as you know, it was not a warrant, is that right?

A. It was on the warrant paper.

Q. You didn't read it, did you?

A. I didn't read it.

Q. You only know it was a warrant because somebody told you, is that correct?

A. That is right.

Q. Where were you at the time the siren whistle blew?

A. In my office.

Q. How far is that from the city hall?

A. It is a block, I guess, half a mile, something like that.

Q. How did you get there, by automobile, or on foot?

A. I went on foot.

Q. You say when you arrived at city hall, you found Mr. Lindsley and Macgee, and who else?

A. There were several others, I forgot their
784 names.

Q. Was Jules LeBlance there?

A. Yes, sir.

Q. Whose cars did you use to go to Lem Williams' place in?

A. Used the fellows cars, the fellows who had cars, I don't know who they all were. If I remember right I was in Mr. Gilbert's car, my car broke down at that time and I was not using it.

Q. What Gilbert is that?

A. W. V. Gilbert, I believe, I am not sure whether I was in his car, it has been so long ago, I don't know whether I was.

Q. Did you use Dr. Brister's car that day?

A. No, sir.

Q. Sure of that?

A. Sure.

Q. Where did you get the guns that the special officers were equipped with?

A. The special officers— I had my own gun.

Q. Did you see any guns at the city hall?

A. No, sir.

Q. Did you all keep those guns there?

A. I kept my gun in my pocket, I didn't use anything but a pistol.

Q. Did you see any police guns at the city hall that day?

A. No, sir.

Q. Sure of it?

A. Sure.

Q. You say you were the last to arrive at Williams' place?

785 A. Yes, I was in the last car, I don't know exactly if it was the last car or not, but among the last.

Q. Did you know where you were going?

A. Sure.

Q. Did you know you were going to Williams' place?

A. Yes.

Q. Going to Williams' place to arrest Dacus?

A. Yes.

Q. Did you see Sol Dacus there when you got there?

A. No, sir.

Q. Did you see him after the shooting?

A. No.

Q. You say you stopped outside of the fence?

A. Yes.

Q. And you could hear the conversation that took place between Macgee in the yard and Williams in the office door, is that right?

A. That is right.

Q. Did you see a man named Tom Gaines?

A. Yes.

Q. You didn't see Williams when he came to the door?

A. No.

Q. Do you recall whether or not the shooting took place before or after the conversation between Macgee and Williams?

A. The shooting took place just after the conversation.

Q. What did Macgee tell Williams?

A. Put that gun down, he didn't want to hurt him, he had a warrant for a negro.

Q. How many times did he say that?

A. I heard him say, put that gun down, put that gun down, put that gun down, I have a warrant for Dacus.

Q. That is how many times you heard it?

786 A. That is how many times I heard it.

Q. You heard every word he said, didn't you?

A. I couldn't say that because I was watching the other part of the building, the two story building, to see whether anybody shot from there.

Q. Did you look for people to shoot out of this two story building?

A. It was possible.

Q. So you expected trouble before you went there?

A. (No answer.)

Q. What were you looking at that place for?

A. Well, naturally, a man would try to watch those things you know.

Q. Well, you say you had a warrant for the arrest of Dacus, Bouchillon and O'Rourke, is that correct?

A. Well, the warrant was for Dacus, I am not sure as to Bouchillon or O'Rourke.

Q. You don't know what the charges against these men were, do you?

A. No, sir.

Q. Do you know who fired the first shot?

A. I can't say that, the first shot was fired from the office.

Q. Came from the office?

A. Yes, sir.

Q. You are sure it didn't come from that two story building?

A. I am sure it came from the office.

Q. Did you see the flash of the gun?

A. I saw the smoke of the gun.

787 Q. Out of which window did it come?

A. I can't say whether it came out of the window that is closest to the door or the— or the—

Q. You couldn't say whether it was cigarette or gun smoke?

A. It was gun smoke.

Q. How do you know that?

A. It would not be cigarette smoke right after the report of the gun.

Q. Will you swear that the men in the office were not smoking?

A. Well, that I can't say.

Q. And the only reason why you say that shot was fired from the office is because you saw some smoke coming out of the window?

A. No, I am confirmed by the report of the fire to a certain extent, I could tell from the muffled sound that it was shot inside of the building.

Q. How many building were there around there?

A. Oh, there were several buildings, the garage and the office, and there was a little building in that yard and then there was the two story building right at the side in the next yard.

Q. You didn't see the flash of the gun?

A. No, sir.

Q. You didn't see the gun, in which way it was pointed at the time it was shot, did you?

A. Why I couldn't see anything at the door,
788 but I saw the fellow raise the gun up at the window.

Q. You saw a man raise a gun up at the window?

A. Yes.

Q. Which window?

A. The west one.

Q. Was that before the general shooting or afterwards?

A. All about the same time, just before the general shooting took place.

Q. Who was it you saw?

A. Bouchillon.

Q. You saw Bouchillon?

A. Yes, sir.

Q. You are positive of that?

A. Sure.

Q. How high is that fence at Williams' place?

A. I don't know, I guess some— two or three different kinds of fence there.

Q. Well, at that time?

A. The best I remember, there was a wire fence there on the south or southwest corner, if I remember right, it was wire, I am not sure, I don't know what kind of fence it was, but it seems to me it was pickets and wire.

Q. What kind of gun did Bouchillon have?

A. Either a twenty gauge or a sixteen gauge Winchester pump gun.

Q. Did you see him fire the gun?

A. Yes, sir, he fired it.

Q. In which direction?

A. He fired the gun in a southwesterly
789 direction.

Q. Which is south, toward Columbia Road?

A. Well, they were on the east side of Columbia Road and was pointing the gun toward Columbia Road.

Q. Let's see which way it went (Counsel exhibiting map). This is supposed to be Columbia Road— hold the map so the Jury can see it?

A. Here is the door, and it was fired kind of this way. (Witness indicating).

Q. When was that?

A. Well, that was about the time that this— that they were shooting in the yard— well they all came after— there were two shots fired out of there and about the same time—

Q. Out of the office?

A. Out of the office.

Q. Are you prepared to swear that was the real first shot?

A. Why I saw, when this report came out of the office, I saw Jules LeBlanc flinch and Macgee flinch, I knew he was shot.

Q. Where was Jules LeBlanc?

A. Standing right here somewhere before that door (witness indicating) I couldn't say exactly where, but kind of near this door (witness indicating).

Q. Where were you standing?

A. I was standing right here somewhere (witness indicating).

Q. Standing over here out on Columbia Road?

A. Right along here. (Witness indicating.)

790 Q. Did you go back this way? (Counsel indicating.)

A. No, sir, I came back out here and back this way (witness indicating) and there is a driveway to the best of my knowledge— well, I know there was a driveway right at this building and there is where O'Rourke came, came right in here. (Witness indicating.)

Q. Now, you say you saw Jules LeBlanc when he was shot?

A. Saw him when he was shot.

Q. Where was he standing?

A. Standing right in here somewhere. (Witness indicating.)

Q. Was he close to this garage door?

A. The map looks like there is a whole lot of space up in here.

Q. Was he standing close to the garage door or standing over toward Williams' residence?

A. He was right up in here somewhere (witness indicating) he was not right up in this door but he was right up in here somewhere.

Q. How far was Wiley Macgee from this door at that time?

A. Right in along here.

Q. How many feet from the street?

A. I can't say.

Q. How many feet was Mr. Levert from the street?

A. That would be hard to say, I don't remember.

The Court:

Talk a little louder.

791 By Mr. Higgins:

Q. Now, at first when you went there, where were you standing?

A. Well, I got off of the car somewhere here (witness indicating) and I walked over here and I stopped here (witness indicating) and I came back around here.

Q. Where were you standing at the time the shooting started?

A. I was standing here where I stopped.

Q. You stopped this car and came—

A. I wasn't driving, the other fellow stopped over here (witness indicating) and I came right along in here somewhere. (Witness indicating.)

Q. You were standing here at the time the shot was fired? (Counsel indicating.)

A. Yes, sir.

Q. And you could see these men in the back yard here? (Counsel indicating.)

A. I had a clear observation of this door over here. (Witness indicating.)

Q. Which door?

A. This garage door and I could see— of course, I could— not see out this door you understand, but I could see in this door.

Q. What about this residence here? (Counsel indicating.)

A. This is a porch here (witness indicating) and this is a porch here. (Witness indicating.)

792 Mr. Dufour:

He said he could see through the window.

A. (Witness continuing) You see this building don't give you an observation from here to this building, this map may not be accurate, but I know this, I have been back here and I know you can see from here to this door. (Witness indicating.)

By Mr. Higgins:

Q. How many feet is it from here to there? (Counsel indicating).

A. I don't know.

Q. How far were you from where you were you were standing to that door?

A. I judge it is about fifty feet from here on that lot, I don't remember just what size that garage is and how far back it is on the lot.

Q. I will ask you this. Will you estimate how far you were standing from the office door at the time you heard this conversation between Williams and Macgee?

A. I judge about fifty feet.

Q. Now, did you say there was a fence in here, the same kind of fence—?

A. The same kind of fence to the best of my knowledge, some little old trash fence built in there, I just don't know what it is.

Q. What kind of a fence did they have there?

A. Practically the same kind.

Q. You don't recall who else furnished auto-
793 mobiles on that day?

A. I don't konw.

Q. When the shooting started what did you do?

A. I stayed there and watched as best I could.

Q. Did you move around?

A. No, stayed in that one place.

Q. Did you fire your gun?

A. No, sir.

Q. Did you see any of these special officers fire their guns?

A. I can't say who fired.

Q. You didn't see them?

A. No, sir.

Q. How long did you stay outside of that property?

A. Not so long, then I went back and went through there and about the time I got there, I don't remember, but I believe it was then Macgee came up and assisted me in taking O'Rourke around and turning him over to Major Guerre and asked him to take him to the hospital.

Q. And then you came in and went into the property, is that right?

A. Yes, sir.

Q. You stated you saw some guns in there?

A. Yes, sir.

Q. Will you state of your own personal knowledge whether Lem Williams put those guns in there?

A. They were in there, he was bound to have put them in because I saw Bouchillon with a gun in his hands at the window myself, I knew every one of them did, Bouchillon, O'Rourke, Lem Williams and Tom Gaines.

I saw Tom Gaines come out of the office with
794 a gun in his hands.

Q. What kind of a gun?

A. Single barrel shot gun.

Q. Did he have any conversation with Wiley Macgee?

A. Wiley Macgee stopped him, I can't recall just what the conversation was but it was only for just a short period of time and he started off with the gun in his hand into the garage.

Q. And he had it by the barrel?

A. Yes.

Q. And Wiley Macgee covered him?

A. Wiley Macgee turned to the office door about that time.

Q. Well, I am talking about Tom Gaines, did Wiley Macgee cover him with the gun?

A. No.

Q. He didn't?

A. He did not.

Q. Are you positive of that?

A. Positive.

Q. You didn't see Wiley Macgee point his gun at Tom Gaines?

A. I did not.

Q. You are sure of that?

A. Sure.

Q. He let Gaines go in the garage with a gun in his hands?

A. He turned from Gaines and turned to Lem about that time and I heard him say, put that gun down, put that gun down, I don't want to hurt you, I have got a warrant here for a negro.

Q. You didn't see Lem Williams then?

795 A. No, sir.

Q. You don't know whether he had a gun in his hand or not?

A. I don't know.

Q. And after all the shooting was over you went in?

A. I went in.

Q. And how long did you stay on the street after the shooting was over before you came in?

A. Just long enough to come in there and bring O'Rourke out.

Q. O'Rourke was outside the building was he not?

A. He went outside the building into this back yard.

Q. And you brought him out of the back yard?

A. And sent him to the hospital.

Q. Which back yard was it, the back yard of this two story building?

A. Yes, sir.

Q. And you brought him out and put him in the automobile and sent him to the hospital?

A. Yes.

Q. And after that you came back and went into the office, is that right?

A. Yes.

Q. Now, I ask you again of your own personal knowledge, did you see Lem Williams put that gun in the office?

Mr. Miller:

I object.

A. I said I did not see Lem Williams put any gun in the office, but I saw Bouchillon in the office with a gun and I saw Tom Gaines come out of the office with a gun and I saw a gun in the office after the shooting.

Q. You said these guns at that time to be
796 about there?

A. (No answer.)

Q. Now you say you saw Bouchillon at the time he fired the shot out of that window which faces Colorado Road?

A. I did.

Q. And you had a gun yourself?

A. I had a pistol.

Q. And you never attempted to use your gun?

A. I was watching other places all at the same time.

Q. And did you draw your gun at all?

A. No, sir.

Q. And you were a regular police officer of the city?

A. Yes, sir.

Q. How many police officers, special officers, were injured that day?

A. None but Jules LeBlanc that I know of.

Q. You don't know of any others?

A. No, sir.

Q. Where was O'Rourke wounded?

A. I believe they said he was wounded in here (witness indicating) one shot, or one or two shots in the arm, I don't remember, I don't know at this time.

Q. Did O'Rourke get well of his wounds?

A. No, sir, he died later.

Q. Now, you were observing this two story building, you were observing the office, and you were looking at the men in the yard too, were you not?

A. As best I could, yes. My eyes were not on the office building all the time, I was looking
797 around to see the fellows in the yard, seeing Bouchillon come out of the window, my eyes were traveling from one place to another, of course, they were all right there together.

Q. Bouchillon was shooting at the special officers, is that correct?

A. Yes, sir.

Q. You made no attempt to shoot him when you saw him do that?

A. Well, I didn't make any attempt because I figured that there were others in there, who would take care of that.

Q. You stopped outside where there were not shots, is that right?

A. (No answer.)

Q. You stayed outside, you were not in where the shooting was going on?

A. I don't recall, I don't know just how long it was.

Q. You never saw any of these special police officers fire any shots?

A. No, sir.

Q. When you went into this office building you found two men dead, that is right is it not?

A. Yes.

Q. Who did you find in there?

Q. Bouchillon and Lem Williams.

Q. Did you find anybody dead in the garage?

A. Tom Gaines was dead in the garage.

Q. And you found O'Rourke wounded?

A. O'Rourke was wounded, yes.

798 By Mr. Miller:

Q. To get my mind clear on this, Mr. Stephens, you say the first shot was fired out of the door of the office?

A. Yes, sir.

Q. That is not from the shot gun you saw Bouchillon have at the window?

A. No, sir, the shot from Bouchillon was from a shot gun, from the way it sounded, this first shot sounded to me like from a rifle or an automatic pistol.

Q. Bouchillon was shooting with a shot gun?

A. Yes.

Q. Did you know Lem Williams?

A. Yes, sir.

Q. How long had you known him before that?

A. I had known Lem Williams for some three or four years.

Q. Do you know what his general reputation was in Bogalusa for peace and quet?

A. It was bad.

Q. Did you know Bouchilon and O'Rourke?

A. Yes.

Q. Do you know what their reputation was?

A. Well, their reputation was bad.

Q. And you heard Lem Williams' reputation discussed in Bogalusa?

A. Yes.

Q. Frequently?

A. Frequently, yes.

Q. And the general concession of opinion was, it was bad?

Mr. Higgins:

I object to a question of that kind, he has asked what his general reputation was and then he comes back and asks what the general concession of opinion was. I ask that that be stricken out.

799

The Court:

Why strike it out, is not that what the general reputation is.

Mr. Higgins:

I reserve a bill.

O. J. SHERMAN, witness, being duly sworn and examined on behalf of Defendant, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. What is your name?

A. O. J. Sherman.

Q. Where do you reside?

A. Bogalusa.

Q. What is your business there?

A. Fire Chief.

Q. Chief of the Fire Department?

A. Yes, sir.

Q. How long have you been chief of the fire department?

A. Well, all told, I would say seven years, I think about seven years as paid chief and then I was volunteer chief previous to that about ten or eleven years.

Q. What was your occupation on December 22, 1919?

A. I was running a hat shop, a millinery store.

Q. Were you connected with the fire department then?

A. No, sir.

Q. So your tender of office doesn't go back
800 to November 22, 1919?

A. No, sir, I was out of the department possibly a year and a half, or a year and three or four months, something like that.

Q. But you were out of the fire department?

A. Yes, sir.

Q. Running this hat store?

A. Yes, sir.

Q. Were you in business for yourself?

A. Yes, sir.

Q. Were you a special officer of the city of Bogalusa in 1919?

A. No, sir.

Q. You didn't volunteer as a special officer?

A. No, sir.

Q. Had you previously held any positions in Washington Parish?

A. Well, I had been a Deputy Sheriff previous to that.

Q. How long?

A. Possibly four or five years.

Q. Were you present at Lem Williams' office on November 22, 1919?

A. I am not positive as to that specific date.

Q. The day of the shooting?

A. The day of the shooting I was.

Q. How did you happen to be there?

A. Well, as a sight seer.

Q. Spectator?

A. Yes, sir.

Q. What attracted your attention to the place?

A. Well, the first thing that attracted my attention was the knowledge that Lem Williams had guns there and I had gone over there—he was in front of
801 the place and I followed him down there and I saw him go in there and I reported that matter to the chief of police, knowing that he was wanted from the day previous.

Q. Who was with him on that occasion?

A. I knew one of the men's name, O'Rourke, but I don't know the other man, I don't know him by name.

Q. There were two white men?

A. Two white men.

Q. About what hour of the day was that?

A. It was before dinner sometime, I can't say the specific hour.

Q. Were these men armed?

A. Yes, sir.

Q. What did they have?

Mr. Higgins:

I object.

The Court:

Let him answer.

By Mr. Dufour:

Q. Were they armed?

A. Each of them were armed with a shot gun.

Q. You say you knew there was a warrant outstanding for Dacus' arrest?

A. Yes, sir.

Q. Now, don't answer this question until counsel gets a chance to object. What were those men that were

armed with shot guns saying and doing when you saw them at or near Williams' place that day?

802 Mr. Higgins:
I object on the ground previously urged.

The Court:
I sustain the objection.

Mr. Dufour:
I reserve a bill.

Q. To whom did you report it?
A. To the chief of police.
Q. You reported the things you have just narrated?
A. Yes, sir.
Q. After reporting that to the chief, where did you go?
A. I went to the depot and mailed some letters in the depot mail box.
Q. And then where did you go?
A. I stayed around there possibly five or six minutes and came back to the city hall.
Q. Did you hear the fire whistle blow on that day?
A. Yes, sir.
Q. Did you go with any of the special officers to Lem Williams place of business?
A. No, sir.
Q. Did you see them leave the city hall to go there?
A. Yes, sir.
Q. Did you follow them?
A. Yes, sir.
Q. Where were they when you arrived there?
A. They were leaving the city hall just before I got there and I just put in behind their course and followed them.

Q. You were in a car, were you?

A. Yes.

Q. Were you armed?

803 A. No, sir.

Q. State what happened when these police officers arrived there?

A. Well, they just entered the front yard, but I didn't go in the front yard.

Q. Where did you go?

A. I went into the lot next door and went alongside the little house to the rear and entered from the side, I walked on the premises next door to the space of about twenty-five feet in there, possibly fifteen feet.

Q. Could you see the office from that point, where you were.

A. Where I stopped, after I got in I could see it.

Q. You could see the office door?

A. Yes, sir.

Q. Tell us what happened when you reached that point?

A. About the time I got to the corner of the house, I heard Mr. Macgee distinctly ask someone to lay down the gun.

Q. Do you know who he was addressing?

A. Well, no, sir, not directly, there were two men visible.

Q. Where were they?

A. Mr. Williams was in the door and there was another man off to the right with a shot gun in his hands.

Q. Do you know where that man had come from?

A. He had just left out of the door when I came to the corner and as Williams came to the door, he backed off.

Q. Came to the door of the office, do you
804 know who that man was?

A. I don't know the man who came out first, but I did know Mr. Williams.

Q. You found out since who that man was, the first man, that one in the garage?

A. I understand from hearsay, I couldn't identify him.

Q. What happened to that man whose name you did not know?

A. The man got killed.

Q. Did you see him after he was killed?

A. Yes, sir.

Q. Who was he supposed to be?

A. Gaines, they mentioned his name as Gaines, I didn't know him personally.

Q. Did you take part in the shooting?

A. No, sir.

Q. Were you armed?

A. No, sir.

Q. In what capacity were you present there?

A. Just curiosity, sight seer.

Q. Speak a little louder please. Did you hear the first shot?

A. Yes, I heard the first shot.

Q. Where did that shot come from?

A. The direction of the shot to the best of my hearing came out of the little building.

Q. How could you tell that?

A. By the sense of hearing.

Q. Was that before or after this colloquy between Macgee and the man standing in the door?

A. Well, just a minute before.

805 Q. A moment before, you mean what, the shot was first or the colloquy was first?

A. The shot was first, the single shot was first.

Q. Now tell us just what happened?

A. Well, the shot was fired, and immediately after there was a fusilage, a momentary fusilage.

Q. Was the shot fired before Macgee said, put down that gun, or after?

A. Well, it must have been right about the same time.

Q. Did you have occasion to go into the office afterwards?

A. I didn't go into the office. I stepped to the outside door.

Q. To the door, and how long after the shooting?

A. Well, I should say right after the shooting.

Q. Right after the shooting, what did you see in the office in the way of fire arms, if any?

A. I saw a pump gun and one pistol in the office, and then there was a single barrel shot gun laid off to the right toward the garage, on the ground.

Q. Did you recognize that pump gun?

A. Yes, sir.

Q. Have you seen it before?

A. Yes, sir.

Q. Whose gun was it?

A. Belonged to Lem Williams.

Q. How did you recognize that gun as being the gun belonging to Lem Williams?

806 A. I had used it a few times a year or so before the shooting, I was training some dogs at that time and I was with Mr. Williams, we went together on several occasions.

Q. You and Williams went hunting on several occasions?

A. Yes, sir, wasn't really hunting, just training dogs.

Q. Training dogs and you had that gun with you?

A. Yes, sir, and I had used it.

Q. And you are sure that is the gun you saw in there that day?

A. Positive.

Q. Had that gun been fired?

A. I didn't examine the gun, the gun showed evidence of having been struck by some buck shot.

Q. Where?

A. The gun that laid in the office, it showed evidence of being struck by some shot, buck shot.

Q. You say the gun showed signs of having been struck by some buck shot?

A. Yes, sir.

Q. What evidence did it give of being struck?

A. The stock was marked up from buck shot raking.

Q. Buck shot raking?

A. Yes, sir.

Q. At what angle was that?

A. I didn't take any particular notice.

Q. Was it the bottom of the stock?

A. It was the side, the side and the top like, I didn't pay any particular attention.

Q. Shots going over or raking along?

807 A. I can't say, I didn't pick the gun up.

Q. What were the general conditions in Bogalusa at that time and prior to this shooting in reference to peace and quietness?

A. Conditions were very tense.

Q. In what way?

A. Well, the peace of the town was generally upset through parties trying to upset the authorities, the police authorities of the city, such as having lights extinguished and threatening to cut off the water supply. Conditions all over the town were very tense.

Cross Examination.

By Mr. Higgins:

Q. Do you know who cut off the lights of your own knowledge?

A. I don't know.

Q. Do you know who cut off the water supply of your own knowledge?

A. I don't know.

Q. You can't testify then to what somebody else told you?

Mr. Dufour:

If your Honor please, he has not been doing it.

By Mr. Higgins:

Q. How long did you say you had been fire chief?

A. Ever since the Bogalusa Fire Department has been established a paid department, with the exception possibly of a little better than a year and the
808 time previous I served as volunteer fire chief, running over a period of possibly a couple of years, or may be more, I can't say specifically. The department is now a paid department and has been for a little better than eight years, and as I said before, with the exception of that time I was out, a little over a year, I had been chief all the time, and in addition to that I was volunteer chief.

Q. You were not chief at the time of this trouble?

A. No, sir.

Q. Who was the chief?

A. Mr. Pittman, or Mr. Taylor, one of the two, I think it was Mr. Taylor, Mr. Taylor didn't remain there possibly thirty days.

Q. Where did you see Sol Dacus that morning?

A. I saw him going into the little officer in Mr. Williams' yard.

Q. What time was that?

A. Just previous to the time I made the report to the chief of police.

Q. What time was it?

A. Sometime before dinner.

Q. Was it eight o'clock in the morning, ten o'clock in the morning, or twelve o'clock?

A. Well, I don't think it was either one of those specific hours you have named, it was just a short while before dinner, it may have been around eleven
809 or twelve o'clock, or thereabouts.

Q. Where were you at that time?

A. Right in front of Mr. Williams house.

Q. Walking or in an automobile?

A. I was in an automobile.

Q. Were you tracing Sol Dacus around?

A. I followed them from my place of business to Mr. Williams place where they lived, or where he lived, and from there I went on and made a report to the chief of police.

Q. Did you usually follow Sol Dacus around Bogalusa?

A. I did on that occasion.

Q. You were not a city policeman I understand?

A. I was not.

Q. Were these two men that you spoke of, Bouchillon and O'Rourke, with Sol Dacus all the time that you saw him?

A. I didn't know Bouchillon, I did know O'Rourke.

Q. Was O'Rourke with him all the time?

A. I don't know anything about if he was with him all the time.

Q. Well, all the time you saw him?

A. He was with him all the time I saw him, from the time he passed my place of business until the time he went into the little office in the yard, I was
810 behind right there, right to the rear of them, possibly a pace or two behind them.

Q. How far is your place of business from Williams' place?

A. My place is in the middle of the block, north of Mr. Williams' place, approximately in the middle.

Q. About how far would that be?

A. Well, a block is quite long in that section, but it is a block.

Q. How many feet would it be?

A. I never measured it.

Q. How many yards?

A. Measurements in feet and yards is equivalent. I never measured it, it is one block, there is one street between Mr. Williams' place and mine and Mr. Williams' place I think is the third property in the next block and there is quite an open space between the steam laundry and my place, I don't know what it is in feet and yards.

Q. Did you see any police officers at that time?

A. At which time?

Q. At the time you saw Dacus and O'Rourke go into Williams' place?

A. I did not.

Q. Are you sure of that?

A. (No answer).

Q. I say, you are sure of that?

A. I say I did not.

Q. Why did you follow Sol Dacus?

A. I didn't specifically follow him to say
811 I was going in the direction of the depot. I did follow him in the sense of the word until I saw him go in, and I knew there was a warrant out

for his arrest the day previous and I just made a report as a matter of form, being a citizen of that town and interested in the town, it was my duty to make that report.

Q. Did you know of any other warrants that were had for the arrest of anybody that day?

A. Not in particular.

Q. But you did know about Dacus?

A. I did.

Q. Who told you about Dacus?

A. I was at police headquarters when the instructions were given to some of the police officers to make the arrest of one Sol Dacus.

Q. Do you know what the charge was against him?

A. I didn't try to find out any charge.

Q. You say you were not armed?

A. No, sir, I was not.

Q. You followed him behind these cars of the special officers to the place of Williams on Columbia Road, is that right?

A. When I left the city hall I came home.

Q. Now, where did you go after you got to Williams' place? (Exhibiting map to witness.) Here is Columbia Road, and there is the two story
812 building, Lem Williams place. Here is Williams office and here is the garage and here is the residence?

A. I turned back this way (witness indicating) this is a vacant lot right here, and I just went right in here, right there (witness indicating).

Q. You were back here?

A. Yes, sir.

Q. How long did you stay there?

A. Well, I was there during the shooting.

Q. During the entire shooting?

A. Yes.

Q. You didn't see Tom Gaines come to that window?

A. Not that window, no, sir.

Q. You didn't see him come to any window?

A. The man who was pointed out as being Tom Gaines came out of this door and went in that direction.

Q. That was the last you saw of Tom Gaines?

A. No, sir, that was not the last, I saw him after he was dead.

Q. Did you see any other men in there?

A. Not that I remember, there were some men in there.

Q. Did you see any men over here with guns?

A. Not that I remember.

Q. Did you see any shooting take place from this spot over this way? (Counsel indicating).

A. No, sir.

Q. Did you stay over there during the entire shooting?

813 Mr. Dufour:

I don't think he said that, the witness said right there (Counsel indicating), and you are putting your finger right there (Counsel indicating).

By Mr. Higgins:

Q. Were you in Williams yard?

A. I was right at that line thereabouts.

Q. In other words, you were in Williams property?

A. Possibly I was, I don't know as I was, possibly I was on that property.

Q. Were you behind this porch?

A. I was right at the edge of this in here (witness indicating).

Q. You were right at the edge, somewhere along in here? (Counsel indicating.)

A. Yes, sir.

Q. How close were you to the building?

A. Within a few feet of that corner.

Q. Toward the back?

A. In toward the back, right where your finger was.

Q. I want to find out whether you were on Williams property?

A. I was on the rear end of the little building where your finger is now.

Q. That is on Williams property?

A. I can't say positively whether it was on Williams property or not, but it was where your finger is.

Q. How far inside of the fence there?

A. I didn't see any fence, I don't know
814 that there is a fence.

Q. Where did you find Tom Gaines' body when you went into the garage?

A. I didn't find the body, I just saw the body laying there.

Q. Where did you see him then?

A. I saw the body lying there.

Q. Where was it?

A. Just a little this way, somewhere off in behind there, to the rear of that little office, lying somewhere in there.

Q. About where in here (exhibiting map to witness) this is supposed to be the garage? (Counsel indicating).

A. Somewhere right down in here. (Witness indicating).

Q. That is a door?

A. I don't know if there is a door there or not.

Q. Was the body here, there, or there? (Counsel indicating.)

A. Somewhere right in here, I can't say positively, somewhere inside of this garage (witness indicating), I didn't go over to this body at all. I just looked in

there and looked at him, I didn't go inside that building at all.

Q. You went right in there after the shooting was over?

A. I didn't go in I say, I went to this opening and just looked in and saw the body lying there.

Q. You went in and you looked in from this direction, the door of the office toward the garage
815 and you saw the body there?

A. That is not the office.

Q. This is the office?

A. This is the front of the office and that is the garage there.

Q. If you want to put the office there, alright, but you were looking over that way? (Counsel indicating).

A. This is the office here and the body was lying inside this place. (Witness indicating).

Q. The body was right here, (Counsel indicating) now is that correct?

A. I don't know if this—yes, I am right.

Q. Was it over here? (Counsel indicating).

A. Sure.

Q. Was it close to this window?

A. No, it was not.

Q. Did you know what was down in this place?

A. No, sir, I didn't look at it.

Q. You say you could see the office door of this office building?

A. Sir?

Q. Did you say you were in the position where you could see the office door of the office building?

A. Yes, I was in a position where I could see the office door to this building.

Q. You saw a man come out of the office door with a shot gun in his hand, is that correct?

A. He was stepping right outside of the
816 door, just made a step right outside of the door, as I came to the corner of the building.

Q. What did Wiley Macgee say to him?

A. I don't know what all he said, I can tell you what I heard.

Q. That is what I want?

A. I just heard him say, make a remark very distinctly, put down that gun, as if he had repeated the remark.

Q. Now he was talking to somebody that had a shot gun, is that correct?

A. I don't know whether he was or not.

Q. Well, did the man that had the shot gun put it down?

A. I can't say that.

Q. Did you look at him?

A. No, I didn't look to see whether he put it down or not.

Q. Were you looking at the office door when Lem Williams came to the office door?

A. I don't know if I was looking directly at that door when he came to the door, but I saw him about that time when he appeared at the door and my eyes must have been right on that door at that specific moment. He appeared at the door you might say in a moment.

Q. Did you hear any conversation between Williams and Macgee?

817 A. I did not.

Q. How far were you standing from the door of the office building?

A. I don't know what the distance is.

Q. Well you can estimate, you were there?

A. I don't know the width of the lot, I have not taken any measurements.

Q. Were you five, ten, fifteen, twenty, or thirty feet, or what was it?

A. I can't say, I didn't measure it, I don't know, I was at the end of the house as I said, I don't know what the distance is or anything, no specific measurements.

Q. You didn't hear any conversation?

A. I didn't hear anything, only the one thing, put down that gun.

Q. That is all you heard?

A. Yes.

Q. Now, can't you tell us approximately how far you were from the office door?

A. You tell me how far it is from the office door to the edge of the lot and I can tell you.

Q. You are a fire chief, are you not?

A. I am.

Q. You know about the length of the hose and things like that don't you, if you have to couple it to get to these fires?

A. Yes, sir, I know the length of the hose.

818 Q. You have some idea of distance, how far were you from here to this wall, (Counsel indicating) you know what the length of the hose is?

A. The hose we use is about fifty feet lengths, whenever the hose comes out it is fifty feet long, we know that, there is no necessity for our measuring it.

Q. Alright, were you fifty feet away?

A. I don't know, I didn't measure the distance.

Q. Can you tell how far it is from here to that wall? (Counsel indicating) Can you estimate it?

A. You can make your own estimate of the measurements, I didn't measure it, I can show you my position on the map where I was at.

Q. Would you say it was a full length of hose, or how much?

A. I didn't lay any hose down there.

By the Court:

Q. You can use some estimate?

A. If he would tell me the lot, yes. I don't know what the width of the property is.

By Mr. Higgins:

Q. I didn't ask you to give any exact measurements in feet and inches, I asked you approximately?

A. Bring me that map?

Q. (Counsel hands map to witness.) I am not trying to trip you up. Have you any idea?

A. How wide is the house?

Q. Yes.

819 A. I might say it was somewhere around forty feet.

Q. Now, you say according to your sense of hearing, the first shot came out of the door?

A. Yes, sir.

Q. You didn't see any gun flash did you?

A. It came out of the little building, I don't know whether it came out of the door, it came out of that little office building.

Q. Could you see the men up in this part of the yard at the time you were standing over here, if there were any men over on this part of the yard, could you see them if you were standing here?

A. No, sir, I wasn't in a position to see that part of it.

Q. So if a gun was fired up here (Counsel indicating) you couldn't tell?

A. Yes, sir, I could have told.

Q. How could you?

A. By my sense of hearing, it would have told me the direction of that shot.

Q. You never saw the flash of the gun at all, did you?

A. Sir?

Q. You never saw any flash of the gun to show you that was the first shot was fired?

A. I didn't see any flash, no, sir.

Q. Now, after the shooting was over you went and looked in the building?

A. I didn't go in the building, I just went
820 to the door.

Q. You went in the door and looked into the building?

A. I went to the front door and looked in, yes, sir.

Q. You didn't go inside?

A. No, sir.

Q. How long after the shooting was it before you went in?

A. Right after the shooting was over I walked over there and looked in.

Q. How long, about?

A. Well, just a few minutes.

Q. Did any of the officers prevent you from going in?

A. No one prevented me from going in, I went in.

Q. No one attempted to stop you?

A. No, sir.

Q. You say Williams had had that pump gun for a year before, is that right?

A. I don't know the specific time, I know that he had that gun when we were shooting birds.

Q. He had used it for hunting purposes, is that correct?

A. He had used it and he was with me at the time, he shot some birds.

Q. What special mark would indicate it from any other pump gun?

A. What special mark?

Q. Yes.

A. Small bore pump gun.

Q. Small bore pump gun?

A. Yes.

Q. Are not they uniform?

A. No, there is different size bores, and this was a small bore.

821 Q. Well, if some one else had a small bore gun, could you tell it from the gun that Williams had?

A. Why yes, if I had handled it.

Q. What marks on it would discriminate it from any other gun?

A. Well, the knowledge it was a twenty gauge Winchester pump gun. I had had it in my hands and I readily recognized it.

Q. By what mark of identification?

A. Just by looking at the gun I could identify it, I knew the gun when I saw it.

Q. The only mark of identification then, is it was a twenty gauge pump gun, is that correct?

A. That was the size of the bore and that was the mark of the gun.

Q. That is the reason why you say it is the same gun?

A. Well, there were marks on it, I knew the stock of the gun, there was a grain mark on the stock of the gun, you could tell that if you handled the gun once.

Q. I understand the stock of the gun was shot, broken?

A. When I saw it last, it had evidences of being hit with buck shot.

Q. With buck shot?

A. Yes, heavy shot.

Q. Mr. Sherman, why did you go to the scene of the shooting?

822 A. Just for curiosity, I suppose.

Q. That is the only reason you can give?

A. That is the only reason.

Q. And your curiosity led you to take an automobile and follow these automobiles down Columbia Road until you got to Williams place and get out of the automobile and come down the said lot and finally locate yourself back here (Counsel indicating), is that correct?

A. It was on my way home, that particular route that you describe, from the city hall it brings me within a few steps from my home and I followed the crowd, as you said, and I went to that particular position.

Q. You stayed there until all the shooting was over?

A. Yes, sir.

Q. When that shooting was over, you went in and examined the premises?

A. I looked in the door.

Q. And you were not a special officer of the city of Bogalusa?

A. I am not.

Q. And what was your occupation at that time?

A. I was in the hat business.

Q. Who was attending to your place of business while you were out?

A. I had a man working for me and my wife

823 was there and a couple of daughters.

Q. You say that you were a good friend of Mr. Williams?

A. I didn't have anything against him.

Q. Were you friendly to him?

A. Well, I spoke to him when I saw him, I was not carrying around with him particularly, I spoke to him like I would to anybody else.

Q. As a matter of fact, didn't you have trouble with him yourself?

A. How is that?

Q. As a matter of fact, didn't you have trouble with Lem Williams?

A. No, I didn't have any trouble.

Q. Didn't you have a fight with him?

A. He struck me once, yes.

Q. How long was that before the shooting?

A. Well, it was a long time before that, that was while I was chief of the fire department and he was working for me and he was caught up in stealing, and I discharged him and he hit me.

Q. Isn't it a fact that you accused him of stealing and he whipped you with his fist?

A. It is not a fact that I accused him, I knew he stole the stuff.

Q. Was he ever charged with it and convicted?

A. I don't know whether he was charged with it or not.

824 Q. Isn't that the reason he gave you a beating?

A. Not that I know of, he may have struck me for being discharged from the fire department.

Q. As a matter of fact, you didn't have any friendly feeling toward him, did you?

A. I considered him just like any one else. I spoke to him when I met him, I had no enmity toward him, I have no particular love for him either, I just pass him as anyone else.

Q. Isn't that the reason why you went to his place at this time when you thought there was going to be trouble?

A. No, it had no bearing on the situation.

Q. That was the source of your curiosity?

A. Absolutely.

Q. That was not the reason you reported Sol Ducus was in his place that day?

A. Absolutely not.

Re-Direct Examination.

By Mr. Dufour:

Q. When was this difficulty between you and Williams, how long ago?

A. I don't know the particular time, it was a long time before that. There was not much difficulty between me and Mr. Williams, Mr. Williams just struck me without ruining me, that was all there was to it.

Q. How many years was it before this accident?

A. Well, it was some little time, I don't know the exact date, a year before, possibly a year.

825 Q. Was it before or after you had been hunting with him?

A. It was while he was in the department.

Q. While he was in the department?

A. Yes.

Q. Was that before or after the occasion you spoke of?

A. It was possibly along about the same time.

By Mr. Higgins:

Q. How large a man are you?

A. You mean what do I weigh?

Q. Yes.

A. I think I weigh, 176, 178, something like that.
Q. Did you weigh that much in 1919?
A. I think I did, about the same.
Q. And how tall are you, about?
A. I am a shade over six feet, six feet and a fraction.

At this point Court was adjourned until the following morning, Wednesday, April 29, 1925.

Wednesday, April 29, 1925.

All parties at interest being present, the taking of testimony was resumed.

DR. J. M. BRUMFIELD, witness, being duly sworn and examined on behalf of defendants, testified as follows:

826 Direct Examination.

By Mr. Johnson:
Q. What is your name?
A. Dr. J. M. Brumfield.
Q. Doctor, you live in Bogalusa?
A. Yes, sir.
Q. What is your business, Doctor, or profession?
A. Dentist.
Q. How long have you been living in Bogalusa?
A. About fifteen years.
Q. What is your age?
A. Forty-one.
Q. Prior to that time, where did you live?
A. In Franklinton, La.
Q. You are a native born resident of Washington Parish?

A. Yes.

Q. In November, 1919, you were living in Bogalusa?

A. Yes.

Q. Were you one of the special officers in the city of Bogalusa at that time?

A. Yes.

Q. Did you know Lem Williams?

A. Yes.

Q. Do you recall the date on which he was killed?

A. Yes.

Q. State whether or not you answered the call to the special officers on that day?

A. Yes, I did.

Q. What was that call?

A. It was a call to assemble at the city hall.

Q. What was the call?

A. The siren whistle.

Q. And you assembled at the city hall?

A. Yes, sir.

Q. What time of day was it that you did that?

A. About noon about, long about noon, possibly between 12 and 1 o'clock.

827 Q. Were you ever connected in any way with the Great Southern Lumber Company?

A. No, sir.

Q. Whom did you find at the city hall when you reached there in answer to that call?

A. There was I suppose twelve or fifteen special police there.

Q. When you say special police, you mean policemen who were assigned regular service, or do you mean special officers like yourself?

A. There were some regular officers there and there were some doing special service.

Q. Were there other citizens there like yourself who had answered that call?

A. There were.

Q. How many would you say were there when you assembled?

A. I hardly know, it has been some little while ago, possibly twelve or fifteen, something like that, may be more, I don't remember, it is quite a while ago.

Q. Were any of the officers of the city government there, of the police department?

A. Yes, sir.

Q. Who?

A. Mr. Lindsley was there.

Q. Who else?

A. I think the chief of police was there.

Q. Who is the chief of police?

A. Chief Abner Macgee, it has been sometime ago and it is a little bit hard to remember just who
828 there were.

Q. Do you remember whether Wiley Macgee was there?

A. Yes, he was there.

Q. What instructions, if any, were given you by the police department—authorities?

A. We were instructed to meet to help them to execute a warrant that had been sworn out for Sol Dacus and O'Rourke and Bouchillon, for disturbing the peace, something like that, dangerous and suspicious characters, and we were to assist in executing those warrants.

Q. Do you know to whom the warrants were delivered?

A. No, I believe they were delivered to Wiley Macgee.

Q. State whether or not you had any instructions relative to where to go to execute those warrants?

A. Yes, we had instructions where to go.

Q. Where?

A. To Lem Williams garage, or office, or place of business.

Q. Did you receive instructions as to who was going to be found at the garage?

A. Well, we were going to arrest the man that the warrant was for.

Q. Who accompanied you to that place?

A. Well, there were several that set out from the city hall, Wiley Macgee and Jules Le Blanc, and Hadley, and I don't know—it is hard to recall just
829 who were there, there were so many.

Q. Do you recall any of the others?

A. I believe Levert was there, Louis Levert.

Q. How did this body of men go from the city hall?

A. In automobiles.

Q. With whom did you go, do you recall?

A. No, I don't, I don't remember, whose car I was in.

Q. Did you have a car of your own?

A. Yes, sir, possibly I was driving my own car, I don't remember. I believe I was though, as I say, it has been quite a little while ago, but I believe I drove my own car, but I don't know who was with me.

Q. Well Doctor, what took place when you went down to this place?

A. When we got to the garage?

Q. Yes.

A. Well, when we drove up we got out of the cars, and looked toward the building in which these men were supposed to be that we had a warrant for, and we went up to the end of the main entrance from Columbia Street into the garage and some one around like that—there is a large opening just to the right of Williams

house on the side of the garage like—and some went in front with Macgee, in the main yard.

Q. Do you recall who went into the main yard?

A. I recall Wiey Macgee, Hadley, and
830 Wilcox, and Jules LeBlanc.

Q. How did you approach?

A. To the side just to the right in the alley like.

Q. Then state what took place?

A. After we arrived, when we got to the place, Lem came to the door of his office and asked something—I don't remember—I couldn't hear plainly what it was—and when he came to the door he had a gun, he had a revolver in his hand and I don't know—just kind of placed at his side like that (witness indicating) and Wiley Macgee said to him, put that gun down, put that gun down Lem, we don't want any trouble, we didn't come here for any trouble with you, we came to arrest these men peaceably and we didn't come here for any trouble, and he kept holding his gun there, and about that time there was a shot fired from the inside of the building and then a whole fusilage was fired.

Q. Where were you at this time?

A. I was standing just back and around Lem's house, between that and the garage.

Q. Do you know if anybody was near you?

A. I don't know, no I dont, there were some men behind me, but I don't know who they were.

Q. Who was in front of you?

831 A. In front, I was in the yard then, the others were in the yard, in the main yard you understand.

Q. How far were you from Wiley Macgee?

A. I suppose fifteen or twenty feet, I don't know just how far it is, I imagine that, judging approximately.

Q. How far were you from Lem Williams?

A. Well, just a little bit further, because he was a little further around like that (witness indicating) this position to the right, these men were in here (witness indicating), and Wiley was a little further this way (witness indicating).

Q. How far were you from the garage, the corner of the garage?

A. Oh, not many feet, five or six feet, something like that, I don't know just what the measurements were or what the distance is.

Q. Now where were you, or what time did you see Williams in the door?

A. When we walked up.

Q. Walked up from where?

A. Walked up from the street after we left our car and went into the enclosure.

Q. Was there anything to prevent you from seeing Williams in his office all the time you were approaching?

A. Yes.

Q. What?

832 A. All the time Lem Williams office was in front of us, but his office was in plain view from where I stood then.

Q. Now, do I understand that after you had passed the house, then you came in view of the office again?

A. Came in view of the office again.

Q. Now, just tell us when Williams came to the door of the office?

A. I don't know, just about the time we walked up, just about that time he came to the door.

Q. You say a shot came from the office, how do you know that?

A. Well, I could tell from the report where it was from, the report had a muffled sound, and I could

tell from the distance and direction of it that it came from the inside.

Q. Could you state then there was a general fusilage of shot from both sides—

A. Followed, yes, sir.

Q. Doctor, did you go to that scene for the purpose of taking part in killing anybody?

A. Absolutely not.

Q. What was the purpose of your going?

A. Peaceably to execute the warrant.

Q. State whether or not when that shooting took place you could tell what men shot any other men from either side?

833 A. (No answer).

Q. What is your answer, Doctor?

A. No, I couldn't tell.

Q. Doctor, did you ever answer the call of this fire whistle on any other occasion?

A. Yes, sir, once previous.

Q. How long before this?

A. I don't remember, possibly a week or ten days.

Q. Where did you go?

A. We went to the city hall.

Q. Were there other special officers assembled at that time?

A. Yes, sir.

Q. What was the trouble on that occasion?

A. We had a report that there was going to be a jail delivery, some men in jail making a jail delivery—trying to break out of jail, making a jail delivery and we went there to protect the jail, protect the prisoners.

Q. When the special officers arrived, did the threatened assault on the jail materialize?

A. No, sir, it did not.

Q. The crowd dispersed?

A. Yes, and when the crowd dispersed, we went back home.

Q. At the time of this killing and some time previous, Doctor, what were the general conditions in Bogalusa?

834 A. Well, the general conditions for peace was upset, general upset condition, the people's nerves seemed to be on edge, and there was a general upset of feeling all over town and high tension.

Q. Were you acquainted with Lem Williams personally?

A. Yes.

Q. How long had you known him?

A. Known him a good many years, possibly eight or ten years.

Q. Do you know what his general reputation was for peace and quietness?

A. It was not very good.

Cross Examination:

By Mr. Higgins:

Q. Doctor, have you ever been in the employ of the Great Southern Lumber Company?

A. No, sir.

Q. Or any of your relatives?

A. No, sir, none at all.

Q. You are not related to any of the officials of the Great Southern Lumber Company?

A. No, sir, not at all.

Q. You have no official relations in respect to it?

A. No, sir.

Q. From whom do you rent your office in Bogalusa?

A. The Great Southern Lumber Company.

Q. What rent do you pay?

835 A. $40.00 a month.

Q. How much space have you got?

A. I have two offices.

Q. From whom do you rent that office, I mean who represents the company?

A. The rental agent, I don't know. whoever the rental agent is, I believe Webb, Paul Webb is the rental agent, L. L. Webb is the rental agent.

Mr. Johnson:

Q. Speak louder and more plainly, the Jury can't hear you.

A. L. E. Webb is the rental agent, I think he is the one that handles that business now.

By Mr. Higigns:

Q. How long have you practiced Dentistry?

A. I graduated from Tulane in 1910. I have been in Bogalusa ever since.

Q. Practiced over in Bogalusa ever since?

A. Yes, sir.

Q. Where were you at the time you heard this whistle blow?

A. Home.

Q. How far were you from the city hall?

A. Well, about a mile, a mile and a half I guess.

Q. You walked to the city hall, or you rode?

A. Rode.

Q. You rode in an automobile?

A. Yes.

Q. Did you have a gun that day?

A. Yes.

Q. What kind?

A. Shot gun.

Q. What was it loaded with?

836 A. Buch shot, I think.

Q. Where did you get that gun from?

A. It is my gun, my own gun.

Q. Will you please talk louder, Doctor, what was that?

A. My own gun, I bought it.

Q. You had it at your house at that time?

A. Yes, sir.

Q. Did you see any guns at the city hall that day?

A. No, sir.

Q. Did you see any police guns at the city hall that day?

A. No, possibly they had some, I don't recall seeing any.

Q. Now, did these men come one at a time, or did they come in a bunch?

A. Who?

Q. The special officers.

A. To the city hall?

Q. Yes?

A. They came one at a time, two or three together, something like that.

Q. Now, I understand they had three regular police officers over there?

A. One.

Q. Regular police officers of the city and the chief and some special officers, were on pay and some volunteers police officers?

A. Yes.

Q. Under which classification were you?

A. Volunteer officer.

Q. You were not under pay at that time?

A. No, sir.

Q. You got no pay for your services?
A. No, sir.

Mr. Dufour:
A little louder please, we can't hear you
837 over here.

A. No, no pay, volunteer.

By Mr. Higgins:
Q. Did the other officers who responded to the call have guns that day, the special officers?
A. I think so, yes, sir.
Q. What kind of guns?
A. I think most of them had shot guns.
Q. Do you know what they were loaded with?
A. No, sir.
Q. Did you have a warrant for the arrest of Lem Williams?
A. No, sir.
Q. Did you have a search warrant to go on his property?
A. No, sir, not that I know of.
Q. You say you were instructed by Mr. Lindsley to go to Lem Williams' garage?
A. Yes.
Q. Did O'Rourke live at Lem Williams' place?
A. I don't know.
Q. Did Bouchillon live at Lem Williams' place?
A. I don't know.
Q. Did Sol Dacus live at Lem Williams' Place?
A. I don't know.
Q. You don't know that?
A. No, sir.
Q. You don't know where Sol Dacus lived?

A. He lived some place down in the negro quarters.

Q. Don't you know as a matter of fact none of these men lived in Lem Williams' home?

A. I don't know whether they did or did not.

838 Q. Well now, what size building was Lem Williams' residence?

A. Small, two or three room place.

Q. Williams lived there with his wife and child?

A. I think so.

Q. Do you know whether or not Bouchillon was a man of family?

A. No, sir, I don't.

Q. Do know whether Tom Gaines was a man of family?

A. Yes, sir.

Q. How many children did he have?

A. I don't know, two or three I think.

Q. Do you know whether O'Rourke was a man of family?

A. No, sir.

Q. How long had you known O'Rourke?

A. I just saw him around town for a little while, I don't know just how long.

Q. How long had you known Bouchillon?

A. I don't know.

Q. Hoy long had you known Gaines?

A. I had known Gaines quite a number of years.

Q. You knew as a matter of fact he didn't live with Williams?

A. Gaines, no, he didn't live with Williams, he lived down in the south part of the town, but O'Rourke and Bouchillon I don't know.

Q. What other cars were used that day?

A. I don't know.

839 Q. Had these cars been used on previous occasions when the whistle was blown?

Q. This door window, what was its condition; open or closed?

948 A. Well, as I said, it was a glass window, I mean just a glass sash, you understand, no window, just a sash.

Q. There was a glass window in there that was closed?

A. Well, as I recollect, there was a sash in that window, but I believe that window was up and there were these strips across it, I wouldn't say all over, but as well as I remember, I believe that bottom sash was up; I won't be positive, but as I remember, I believe it was, and had some strips nailed across it.

Q. Strips?

A. Wooden strips.

Q. How long were those strips?

A. Well, long enough to go across the window.

Q. And how thick were they?

A. Well, ordinary, I would say, an inch thick possibly.

Q. And how wide were they?

A. Well, I would say—I couldn't say, I wouldn't be positive but it seemed to me six inches, possibly, six or eight inches wide.

Q. And you say there were some sacks packed up there?

A. No; I don't remember any sacks being tacked up there.

Q. Didn't you say there were some sacks tacked up?

A. I didn't say "sacks"; I said "sash."

Q. I understood you to say sacks; I beg your pardon. Now how high up were these boards placed in this window?

A. Well, it was down—oh, it was down about midway of that window.

949 Q. Now, starting from the bottom, how high would they come?

A. Well, I would say they were nailed about half way up on it. There was a space, as well as I remember, left at the bottom, but I can't be positive. All I remember is there were some boards, and I don't recall just exactly, as I said, the width or the distance.

Q. Now let's see. You say the lower sash of this glass window was up; is that right?

A. Well, as well as I remember—I won't be positive about it—these boards were nailed across there, but I won't be positive.

Q. Did the boards cover the window from the lower part of the window to where the upper and the lower sashes met?

A. About the same.

Q. And the upper part was the upper glass sash; is that right?

A. Yes.

Q. Now was this window closed or open?

A. That was open.

Q. Was the glass door closed or open?

A. It was open.

Q. I understood you to say you didn't examine the door of the office?

A. I didn't examine the door; the door was open when I got there; I never examined it.

Q. What wall did you find these shots in?

950 A. Round this window here and some in this wall (witness indicating), on this side and round this window.

Q. You say you saw a gun on the wood pile?

A. There was one in the back yard, yes.

Q. Did you examine that gun?

A. I took charge of it.

Q. What kind of gun was it?

A. Double barrelled shot gun, as well as I remember.

Q. And you say you also found a double barrelled shot gun in the toilet?

A. In the toilet.

Q. You don't know who put those guns there?

A. No, sir; I don't know of my own personal knowledge who put them there.

Q. You say there was a drawer that you found some shells in?

A. In this table or desk—I won't say whether it was a desk or a table—it was either a table or a desk—in the office.

Q. Was the drawer open or closed when you got there?

A. Partially open.

Q. Did you find a gun in that drawer?

A. Yes.

Q. What kind of gun?

A. That was this army Colt, I believe they call it.

Q. Now you say you don't know where these other guns are that you found?

A. No, sir; as I say, I turned them over to
951 the grand jury; I didn't try to keep track of them any more.

Q. So far as you know, they may have been lost or mislaid.

A. Yes, sir.

Q. Were the boards in the window dry goods box boards or regular—

A. All I recall is they were wooden boards; I don't know whether it was a box or just lumber strips.

Q. Were they nailed or not?

A. I couldn't say.

Q. How were they fastened?

A. As I say, I won't say how they were fastened; I suppose they were nailed, I don't know. As I said, I never examined them. I wouldn't say, because I don't recall if I examined them, that I can't say, I don't recall now.

Q. You know, as a matter of fact, though, they were not held there by mere force of gravity?

A. No, I guess not.

By Mr. Dufour:

Q. One of the jurors wants to know what kind of gun was found in the toilet.

A. Double barrelled shot gun; one barrel had been fired and the other was cocked, the hammer was pulled back.

By Mr. Higgins:

Q. Are you sure it was a shot gun?

A. Yes, sir.

Q. And the one in the wood pile was also a shot gun?

A. Yes, sir.

952 BOB CARSON, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. Mr. Carson, how old are you?

A. Forty-three.

Q. Where do you reside?

A. Bogalusa.

Q. How long have you resided there?
A. About seventeen years.
Q. What is your business?
A. Grocery business.
Q. In business for yourself?
A. Yes, sir.
Q. Were you residing in Bogalusa in November, 1919?
A. Yes, sir.
Q. What was your business then?
A. Grocery business.
Q. Same business that you are now conducting?
A. Yes, sir.
Q. How long have you been in that business?
A. Went in the business in 1918.
Q. Did you work for the Great Southern Lumber Company in 1919?
A. No, sir.
Q. Had you ever worked for them?
A. Yes, sir.
Q. How long ago?
A. 1907 to 1910.
Q. Were you one of the special police officers of the city of Bogalusa in November, 1919?
953 A. Yes, sir.
Q. Did you answer the whistle blown for the summoning of the special police that day?
A. Yes, sir.
Q. Where did you go when the whistle sounded?
A. City Hall.
Q. Whom did you find there?
A. I found the Chief of Police, Commissioner of Police and several others.
Q. Did you know what the purpose in summoning the special police was?

A. Well, for the protection of the city; I had orders from the Chief of Police.

Q. I mean on this particular occasion.

A. I didn't know till I got there.

Q. Did you get any instructions when you got there?

A. Yes, sir.

Q. Where did you go when you left the City Hall?

A. On towards the river.

Q. Is that on the road to Mississippi?

A. Yes, sir.

Q. What instructions did you have to go out there and from whom?

A. From the Chief of Police, to arrest Sol Dacus if he came that way.

Q. Who accompanied you?

A. Nick Jenkins, Millard Justice and Bud Shirley.

Q. Who is Bud Shirley?

954 A. He is dead.

Q. When did you first know that there was any shooting on that day, at that place?

A. I heard the shooting out on the road about a mile.

Q. Did you know where it was?

A. It was towards town; I don't know exactly where it was.

Q. When did you learn where it was?

A. When I got there.

Q. How long did you stay at the river?

A. I stayed there till some one came along and told us they had trouble around there.

Q. Did you go into town?

A. Yes, sir.

Q. How long after you heard the shooting did you arrive at the scene?

A. I guess about fifteen minutes.

Q. Were you present during the shooting?

A. No, sir.

Q. Did you take any part in it?

A. No, sir.

Q. After you arrived at the scene of the shooting, were you assigned to any duty?

A. The Chief of Police told me to watch the gate and keep people out of there.

Q. Did you see Mrs. Williams when you were there, Mrs. Lem Williams?

A. If I did, I didn't know her.

Q. You mean, if you did, you didn't notice her?

A. I don't know that I knew the lady at all.

Q. Did you see any women there?

955 A. I saw Mrs. Ida Williams, that is, his sister, Miss Ida.

Q. Did you have any conversation with any women there that day?

A. No, sir.

Cross Examination.

By Mr. Higgins:

Q. While you were in the employment of the Great Southern Lumber Company, in what capacity did you serve?

A. Barn foreman, at the time.

Q. Did you serve in any other capacity?

A. Deputy sheriff at the time.

Q. Were you in the employment of the Great Southern Lumber Company?

A. For that part I was under the sheriff.

Q. Did you ever work for the Great Southern Lumber Company as a guard?

A. No, sir.

Q. Did you ever serve them as a special policeman?

A. No.

Q. Did you ever serve them as a watchman?

A. No, sir.

Q. The only way you served them was as foreman of the barn?

A. That was from 1907 to 1910.

Q. You deny that you ever served as a watchman or a guard or as an officer or as a policeman?

A. Yes, I deny it.

Q. What did you do after 1910?

A. I came to New Orleans.

956 Q. What were you doing here?

A. In the saloon business.

Q. Where?

A. Rampart and Poydras.

Q. How long did you stay in the city in that business?

A. Two years.

Q. Where did you go from there?

A. Alabama.

Q. What business there?

A. Deputy sheriff.

Q. How long did you stay there?

A. Stayed about a year.

Q. When did you move back to bogalusa?

A. Came back in 1918.

Q. What business did you go into then?

A. I bought the Holloway Brothers grocery business.

Q. When were you appointed city policeman in Bogalusa?

A. Some time in 1919, about, I think about along the latter part of September.

Q. How long did you stay in that position?

A. Well, some time, that is, two or three months afterwards.

Q. How long did you stay as a policeman after the shooting?

A. About three months, I think; services weren't needed any more then.

Q. Your services were no longer needed and there was not any use to have you on the force?

A. The city Police Department didn't need any help after that.

Q. Were you a regular officer or a special officer?

A. Special officer.

Q. Been paid for your services?

957 A. No, sir.

Q. Were you a volunteer?

A. Yes, sir.

Q. Who had the warrant for the arrest of Sol Dacus?

A. I don't know.

Q. You don't know?

A. I wasn't with them when they went. I don't know who had it.

Q. You don't know who had it?

A. The day they went down there, no sir.

Q. Did you have a warrant when you went towards the Mississippi Line that day in the automobile?

A. I didn't have a warrant, no, sir.

Q. You didn't have a warrant that day?

A. No, sir.

Q. Positive of that?

A. Yes, sir.

Q And yet you went to arrest him?

A. Yes, sir; there was a warrant out for him.

Q. Do you know what he was charged with?

A. I guess I do.

Q. What was the charge?

A. Inciting a riot, I think, was the charge against Sol, I understood, I am not positive, but I knew anyway they had a warrant, Mr. Lambright had the warrant the night before.

Q. Did you see that warrant?
A. I don't know that I did.
Q. You never did read it?
A. I don't know that I did.

Q. Then all you know about what Sol Dacus
958 was charged with is what somebody told you?
A. I took it from the Chief's orders.

Q. You won't swear he was ever charged with trying to incite a riot?
A. Well, I think that was the charge; it has been about six years since then.
Q. I show you warrant for the arrest of Sol Dacus and ask you to read what the charge was?
(Counsel hands document to witness).
Q. What was the charge?
A. Dangerous and suspicious character.
Q. Nothing about trying to incite a riot?
A. I said I wasn't positive about it, but I thought it was.
Q. After you got to the Williams' place, you were stationed as a guard to keep people from going in; is that right?
A. Yes, sir.
Q. Did you see Major Guerre there?
A. I don't remember.
Q. Did you see Mr. Wilcox there?
A. I don't think so.
Q. Did you see Mr. Levert there?
A. I don't know that I did, whether he was there that day or not.
Q. Did you see Mr. David Bienn there?
A. I don't remember.
959 Q. Did you see Mr. Lindsley there?
A. I think Mr. Lindsley was there; I don't remember.

Q. Who stationed you at the gate?
A. Chief of Police.
Q. What is his name?
A. Abner Magee.
Q. Did you keep everybody out?
A. Not everybody.
Q. Whom did you permit to go in?
A. I didn't let any one. There was only one man tried to go in there while I was there.
Q. Who was that?
A. It was—let me see—Gus McCann.
Q. Did he get in or did you keep him out?
A. I kept him out.
Q. You say you didn't see Mrs. Williams there at all that day?
A. If I did, I didn't know her.
Q. Did you see any ladies there at a'l?
A. Miss Ida.
Q. Mrs. Ida Melancon?
A. I guess that is her name; I don't know.
Q. Now when you left the City Hall, how did you leave?
A. Left in my car.
Q. Your own automobile?
A. Yes, sir.
Q. And where did you go?
A. City Hall.
Q. And after left the City Hall, where did you go.
A. We went out toward the river.
960 Q. Is that close to Columbia Road?
A. That is across Columbia Road.
Q. How far were you from Lem Williams' office at the time you received news of the trouble?
A. Oh, about a mile.
Q. How long did it take you to get there?

A. Well, when I received news of the trouble, about fifteen minutes, that is, from the time of the shooting, I don't know that it took me that time to drive in, but from the time I got the news of the trouble, it was fifteen minutes before I got there.

Q. Mr. Carson, do you still insist you never were employed as watchman or guard or some kind of police officer of the Great Southern Lumber Company?

A. Never was.

Q. Did you ever have any trouble with a man by the name of McCann?

A. A little trouble, yes.

Q. When was that?

A. That was in 1910.

Q. What happened to McCann, or McGann, or whatever his right name is.

Objection: Mr. Miller:

That is not material, what happened fifteen years ago.

961 Q. All right; tell us about it, Mr. Bob Carson.

A. What do you to know?

Q. I want to know about this trouble.

A. I was sent to arrest him and three other men one night, and he went to shooting and so did I; he got killed and I got shot two or three times, and my partner got shot four times, and that is all.

Q. Do you know whether or not the Great Southern Lumber Company was sued as a result—

Objection: Mr. Dufour:

If your Honor please, we object to that. Anybody can be sued.

The Court:
I don't see any relevancy.

Mr. Higgins:
I want to see if that record won't show that this man was in the employment of the Great Southern Lumber Company.

Mr. Dufour:
The way to do that is to get the record.

Q. At that time, Bogalusa was not incorporated?
A. No, sir.
Q. How large a man are you, Mr. Carson?
A. I weigh about 270 pounds anyhow.
Q. What did you weigh in 1919?
A. I weighed about 240.
Q. How tall are you?
A. Five feet eleven.

962 Q. You didn't have a warrant in your possesion that day for Dacus at the time you received—

Mr. Miller:
If your Honor please, he has testified to that two or three times.

Mr. Dufour:
Can't have a warrant in more than one place at a time.

The Court:
He has answered that already.

Q. Did you have a gun that day?
A. Yes, sir.

Q. What kind of a gun?
A. A Winchester.
Q. Was it loaded?
A. Yes, sir.
Q. Did Bud Shirley have a gun?
A. Yes, sir.
Q. What kind of a gun?
A. He had an automatic shot gun.
Q. Did Justice have a gun?
A. Yes, sir.
Q. What kind of a gun?
A. Shot gun.

963 G. F. POOLE, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:
Q. Mr. Poole, what is your full name?
A. G. F. Poole.
Q. How old are you?
A. Forty.
Q. Where do you reside?
A. Bogalusa.
Q. How long have you resided there?
A. A little over fifteen years.
Q. Are you engaged in business in Bogalusa?
A. Yes, sir.
Q. What character of business?
A. I am in the undertaking business.
Q. How long have you been in that business in Bogalusa?
A. Ever since I have been there.

Q. You own your own business?

A. Yes.

Q. Married?

A. Yes.

Q. Children?

A. Two children.

Q. Were you a special police officer of the City of Bogalusa in November, 1919?

A. Yes, sir.

Q. Member of the volunteer force?

A. Yes, sir.

Q. Did you respond to a signal for the assembling of the special police on November 22nd, 1919?

A. Yes, sir.

Q. Where did you go when you heard the signal?

A. I went to the City Hall.

Q. Whom did you find there?

964 A. Well, there was several men there. I don't exactly recall the names, but I know the chief of police was there. I can't name them all.

Q. Were any other officials there?

A. Yes; I believe Mr. Lindsley was there.

Q. He was then the Commissioner of Public Safety?

A. Yes.

Q. When you got to the City Hall, what information did you receive about the purpose of summoning the special officers?

A. I was told they had a warrant for the arrest of Sol Dacus, Bouchillon and O'Rourke, I believe, and they wanted us to go down and arrest these men.

Q. Did you go as one of the special officers to effect their arrest?

A. Yes, sir.

Q. Where did you go?

A. We went to his office, Mr. Williams' office, on Columbia Road, I believe.

Q. Did you go there to kill anybody?

A. No, sir.

Q. Did you enter into any agreement or conspiracy to shoot anybody?

A. No, sir.

Q. Did you go there to do violence to anybody?

A. No, sir.

Q. What was your purpose in going there?

A. Merely to arrest these men that we were told were there.

Q. A little bit louder. Now after you arrived at Williams' place on Columbia Road, what did
965 you do?

A. Got out of the cars, walked into the yard, to the office.

Q. Did you see any women there on that occasion?

A. Yes. There was Mrs. Lem Williams and Mrs. Jim Williams; they were coming out as we were going into the yard.

Q. They were coming out of the premises?

A. Yes, sir.

Q. Where did you go on entering the premises?

A. Well, we walked up close to the office door.

Q. Did you have a gun?

A. Yes, sir.

Q. What kind of a gun?

A. It was a revolver, 38.

Q. Did you have it out?

A. No, sir.

Q. Was it in your pocket?

A. Yes, sir.

Q. When did you first draw that gun, if at all?

A. Well, I didn't draw it until after the shooting started; then I did it to protect myself.

Q. Tell us what happened as you and your associates walked in this yard?

A. Well, we met the two Mrs. Williams, Mrs. Lem Williams and Mrs. Jim Williams, coming out, and Mrs. Lem Williams said, "Dont shoot until we get out of here," and Mr. Wiley Magee told her "We haven't come to shoot any one; we have come to arrest this nigger Sol Dacus."

Q. Then what happened?

A. Then as we neared the office, this man Tom Gaines walked out of the office into the garage with a gun in his hand, and Mr. Magee told him to put his gun
966 down. He said, "Come and get it," and about that time Mr. Williams came to the door with an automatic—

Q. Lem Williams?

A. Yes, sir—in his hand, and Mr. Magee told him, called his name, said, "Lem, put that gun down, put it down, put it down," he said, and about that time there was a rifle fired, and then the firing became general.

Q. How near were you to Magee?

A. I was standing just to his left.

Q. How many feet from him?

A. I guess five or six.

Q. Did you go into the office after the shooting?

A. No, sir.

Q. While you were standing in that position, five or six feet from Magee, you still didn't have any gun drawn?

A. No, sir.

Q. Did you answer a summons for the special officers on any other occasion?

A. Yes, sir.

Q. How long before?

A. I guess it was three or four weeks; I don't know.

Q. Did you respond to that signal?

A. Yes, sir.

Q. Where did you go?

A. City Hall.

Q. What was the occasion for the summoning of the officers?

A. Well, these men had been arrested, and it was threatened to break the jail and take these men out.

Q. Did you see any mob there on your arrival?

A. Yes, sir; we saw a number of men, just above the jail there.

Q. Were they armed?

967 A. Yes, sir; some of them were.

Q. What happened after the officers got there?

A. When the officers got there, they saw they were pretty well guarded, well protected, so they dispersed, the crowd, went away.

Q. Have you ever worked for the Great Southern Lumber Co.?

A. No, sir.

Q. Have you ever been connected with the Great Southern Lumber Co.?

A. Not on their payroll, but in connection with my duties as undertaker, you know, I have to take charge of bodies some times for the company.

Q. You do a general undertaking business in the City of Bogalusa, do you?

A. Yes, sir; I have no job with the company, that is, I have never been on their pay roll.

Q. How many undertakers are there in Bogalusa?

A. One; I am the only one.

Q. You are the only one?

A. I am the only undertaker, but there are others that sell coffins, you know.

Q. Bogalusa, you mean?

A. Bogalusa, in the town.

Q. Where did the first shot come from?
A. What?
Q. The first shot on that occasion?
A. Came from the office, inside.
Q. You are sure of that?
A. Yes, sir.

968 Cross Examination.

By Mr. Higgins:
Q. You say the first shot came from the office?
A. Yes.
Q. It was a rifle shot, you say?
A. Yes.
Q. You say you saw Mrs. Jim Williams coming out of the yard with Mrs. Lem Williams?
A. Yes, sir.
Q. You can't be mistaken?
A. No, sir; I know them both.
Q. You saw them at the time you men entered the gate?
A. Just after we walked through the gate, around the middle of the yard, between the gate and this office is where we met.
Q. Mrs. Lem Williams and Mrs. Jim Williams were coming out?
A. Yes, sir.
Q. Now this (exhibiting plan to witness) represents Columbia road; this represents the two story building next the Williams property, on the right side facing the road; this is the office building; this is the garage; this is his residence.
A. I know the location.
Q. Now where did you come from?
A. Walked in the gate up here; this is the gate, this gate here (witness indicating).

Q. This is another gate over here; this is supposed to be the large gate.

A. This is the large gate that she walked
969 out.

Q. Where were you at the time you saw Mrs. Jim Williams and Mrs. Lem Williams leave the yard?

A. Well, we were, I guess, about midway, here (witness indicating).

Q. Where did they come from?

A. They came from the office.

Q. They came from the office?

A. Yes, sir.

Q. And where were you at the time you saw them coming out of the office?

A. We were along here somewhere; going in the gate, we walked up and we met them about the middle of the yard.

Q. As you walked up you met them about the middle of the yard, and they came out of the office door?

A. Yes, sir.

Q. Now how near were you to Wiley Magee at that time?

A. Well, I walked on right down the yard with him.

Q. And how far were you from Paul LeBlanc—Jules LeBlanc—

A. Well, Jules LeBlanc was pretty near—I don't know—he was a little further off; I don't know just exactly the distance. Fifteen feet, I guess.

Q. You will have to speak louder. Twelve or fifteen feet, in advance or to the rear?

A. To the rear.

Q. How close did Wiley Magee go to this office door?

A. Near—well, just right in front of the door.

Q. How many feet from it?

A. Well, about five feet.

Q. About five feet?

970 A. Yes.

Q. How close did you get?

A. Well, I was just to the left of Wiley Magee; I guess I was eight or ten feet, may be more.

Q. As you entered the yard, did you see any men standing around on the outside of the office door?

A. I never seen—no.

By Mr. Johnson:

Q. What is your answer?

A. No. I didn't see any men standing on the outside, but at the end of the yard we saw Gaines walking out of the office into this garage with a gun in his hand.

By Mr. Higgins:

Q. Now where was Gaines at the time Magee ordered him to put down the gun?

A. Back in the garage, standing just about here.

Q. He was in the garage when he was ordered to put down the gun?

A. Yes, sir.

Q. He was in the garage?

A. Yes, sir.

Q. Could you see him?

A. Yes, sir.

Q. How did you manage to see him, if he was in the garage?

A. Well, there is a big door to the garage, and he was standing back, right at the entrance here, just in the door.

Q. Well, did he put the gun down?

A. No, sir; he said "Come and get it."

Q. "Come and get it." Did he hand it out,

971 or how did he do?

A. He had the gun in this position (witness illustrating), as if he was trying to get a shell into the chamber of the gun, working at the gun that way, showing that the gun wouldn't work, so it seemed, and he was trying to make it work, trying to work the shell into the chamber of the gun (witness illustrating).

Q. The gun wouldn't work and he was trying to get a shell into the chamber of the gun?

A. Sometimes a shell will stick, you know, or something and it is a hard matter to get it into the chamber of the gun.

Q. Did Gaines stand the gun down in front of him and hold it by the barrel?

A. No, sir.

Q. Did he throw it down on the ground?

A. No, sir, not while I saw him.

Q. You saw him all the time he was there, didn't you?

A. No, sir, I didn't. After Mr Williams came to the door with his gun in his hand—

Q. What?

A. —I lost sight of Gaines, I didn't look at him any more, I looked towards Lem.

Q. Were you looking at Gaines when Wiley Magee told him to put down the gun?

A. Yes.

Q. Did Gaines put down the gun at that time?

A. No, sir.

Q. Did he stand it down on the ground and hold it by the barrel at that time, I mean, when Wiley
972 Magee ordered him to put down the gun, did he stand it down on the ground, holding it by the barrel?

A. No, sir, he didn't.

Q. About that same time, Williams came to the door?

A. Yes, sir; just after he told Gaines to put the gun down, Williams came to the door.

Q. Was he in his shirt sleeves or with his coat on?
A. In his shirt sleeves.
Q. With his hat on?
A. No; didn't have a hat.
Q. What did he have in his hand?
A. He had an automatic pistol.
Q. Which hand?
A. Right hand.
Q. And what position did he have it in?
A. Up in this position (witness illustrating).
Q. Pointing it in what direction?
A. Wiley Magee.
Q. Pointing it at Wiley Magee. How high is the office floor from the ground?
A. Just one step.
Q. One foot, would you say?
A. Well, one foot.
Q. About two feet?

Mr. Dufour:
He said one step.

Q. Is there twelve inches to a step?
A. About twelve or fourteen.
Q. And Williams was pointing the gun at Wiley Magee?
A. (No answer).
Q. Did Wiley Magee have a gun?
973 A. Yes, sir.
Q. What direction was his gun pointing?
A. Well, he pointed it towards Mr. Williams and told him to put his gun down.
Q. What position did he have his gun?
A. Had it to his shoulder (witness illustrating).

Q. Had it to his shoulder. The time he ordered Gaines to put his gun down, in which direction did Magee have his gun pointed?

A. Pointed towards Gaines.

Q. Up to his shoulder?

A. Yes.

Q. Did you draw your gun at that time?

A. Not until after the shooting started.

Q. Did anybody else have any guns pointing towards Williams at that time?

A. I didn't see them.

Q. How did you know that the first shot was fired from the office?

A. I was standing right close to the door, and this—

By Mr. Dufour:

Q. A little louder, please, Mr. Poole.

A. I was standing right close to the door, and this bullet came out by me.

By Mr. Higgins:

Q. You say Wiley Magee was five feet from the door, and you were how far from Wiley Magee?

A. Well, I guess about three or four feet.
974 I don't know just exactly. I was pretty close to him.

Q. You say it was a rifle shot?

A. Yes, sir.

Q. Did it come out of the door?

A. Yes.

Q. Came out of the office door?

A. Yes.

Q. How do you know it came out of the office door?

A. Well, I heard the report, and then I heard the bullet when it passed by me.

Q. Well, could you tell what direction that bullet was coming from?

A. Well, I could tell about the direction, yes.

Q. Now, Mr. Poole, as a matter of fact, isn't the only reason you have for saying the bullet, the shot, came from the office, is because of your judgment of sound?

A. Judgment of sound; no, sir, not altogether.

Q. Well, what is the other reason?

A. As I said, I heard the bullet when it passed by me; as the bullet went past me, I heard a singing sound.

Q. You didn't see the bullet?

A. No; I heard it.

Q. You heard it, that is all, and that is your judgment of sound?

A. I could tell the direction it was coming from the sound.

By Mr. Johnson:

Q. You mean that singing sound, or the report? Which?

A. Well, the report was inside of the office; that singing of the bullet was outside.

975 By Mr. Higgins:

Q. You were looking towards the office at that time?

A. Yes, sir.

Q. You couldn't see anybody in the back of you, if they fired a shot, could you?

A. Behind me?

Q. Yes.

A. No, sir.

Q. Now when the shot was fired, what did Wiley Magee do?

A. Well, the next I saw Wiley Magee, he backed over across this yard, over near that little residence, he and I, I was over there myself.

Q. You backed over there?

A. Yes, sir.

Q. Did you ever see Wiley Magee fire his gun?

A. I couldn't tell; just after the report, you know, just from the volley of shots, I just really couldn't tell who did the firing.

Q. You didn't see Wiley Magee fire his gun?

A. No, sir.

Q. You said "No," did you?

A. No.

Q. Did you fire yourself?

Objection: Mr. Dufour:

We object. Will your Honor please instruct the witness as to his constitutional rights.

The Court:

If your answer to a question would tend to incriminate you, you have a right to decline to answer.

Q. Do you claim that privilege, Mr. Poole?

A. Yes, sir.

Q. What calibre gun did you have?

976 A. 38.

Q. Automatic?

A. No; police revolver.

Q. Did you get your gun from the City Hall, or did you bring it with you?

A. I had my own gun.

Q. Did you see any guns at the City Hall that day, besides what the men were carrying?

A. No; not besides what the men were carrying.

Q. Did you see Major Guerre at the City Hall that day?

A. I don't remember.

Q. Did you see the warrant for Dacus that day?

A. No, sir; I didn't see the warrant for Dacus.

Q. Did you see the warrant for O'Rourke?

A. No, sir; I didn't see either one of them.

Q. Never saw any warrant at all?

A. No, sir.

Q. Did you have a warrant for Lem Williams' arrest.

A. I didn't have it.

Q. Did anybody else have a warrant for Lem Williams' arrest?

A. They told me Mr. Magee had it.

Q. For Lem Williams; are you sure of that?

A. (No answer.)

Q. Wiley Magee told you he had a warrant for Lem Williams' arrest; did he tell you he had a warrant—

A. Not for Lem Williams, no; for Sol Dacus and Bouchillon and O'Rourke.

Q. I will ask you again, did you have a warrant for Lem Williams' arrest?

A. No, sir.

Q. Did you have a search warrant to go on
977 Lem Williams property?

A. No, sir.

Q. What kind of gun did Gaines have when he came out?

A. Shot gun.

Q. Double barrelled or single barrelled?

A. Single barrelled.

Q. Did you see Dacus there?

A. No, sir.

Q. Was Dacus arrested at that time?

A. No, sir.

Q. Did you see Bob Carson there?

A. No, sir.

Q. You say Lem Williams came to the door with a gun in his hand, in his shirt sleeves?

A. Yes, sir.

Q. He was right in the door?

A. Well, just a little back, I should say one step back from the door.

Q. He could see you, couldn't he?

A. Yes, sir.

Q. Could see Magee too?

A. Yes.

Q. Could see these other special officers too, couldn't he?

A. I expect he could see some of them; I don't know if he could see them all, in fact I know he couldn't see them all from the position he was standing.

Q. Did all of these special officers have fire arms?

A. I don't know.

Q. Did you see any guns in their hands?

A. I saw some guns; some of them were armed.

Q. What kind of guns did they have?

A. Well, some of them had rifles, shot guns.

978 Q. Well, at the time you answered that summons before, the crowd dispersed as the special officers came up; is that right—at the time of the attempted jail delivery, as you described it?

A. Well, they dispersed after they saw these men down at the jail, at the city hall, rather, guarding the jail.

Q. You say they dispersed?

A. Yes, sir.

Q. And nobody was shot or killed?

A. No, sir.

Q. Did you notice this window in the end of the office building towards Columbia Road? (Exhibiting map to witness).

A. I know there was one there, but I didn't pay any particular attention to it.

Q. Do you know whether it was closed or open, when you came in?

A. I couldn't say.

Q. Did you see anybody standing in that window at the time you came in?

A. No.

Q. What is this building constructed of, this office building?

A. It is a wooden building.

Q. Was it weatherboarded or how?

A. Well no; the boards ran up and down—uprights, you known, 1x12, and then a batting or strip.

Q. The door was open as Lem Williams came to the door, was it not?

A. Yes.

Q. How much did you weigh at that time?

979 A. I guess about 145 or 150 pounds.

Q. You didn't weigh as much as the coroner, did you?

A. No, sir.

J. P. STERNS, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. What is your name?

A. J. P. Sterns.

Q. Mr. Sterns, how old are you?

A. Fifty-two.

Q. What do you weigh?
A. 190 pounds.
Q. Where do you reside?
A. Bogalusa.
Q. How long have you resided there?
A. About seventeen years.
Q. What is your business?
A. Drug business.
Q. How long have you been in the drug business?
A. Fifteen years.
Q. Do you own your own business?
A. I do.
Q. Do you occupy any official position in the city of Bogalusa?
A. Yes, sir; Commissioner of Education.
Q. Member of the Commission Council?
A. Yes, sir.
Q. Were you Commissioner of Education of the City of Bogalusa in November, October and Novem-
980 ber, 1919?
A. I was.
Q. Were you in the discharge of your duties, the duties of that office, during those months?
A. Yes.
Q. Do you know Lem Williams, or did you know Lem Williams?
A. I did, yes, sir.
Q. Are you familiar with the general conditions that existed in that community during the months of October and November, 1919, as regards peace and orderly administration?
A. Yes, sir, I am.
Q. Were conditions normal or abnormal?
A. Conditions were very serious at that time.

Q. Now will you please tell us what those conditions were?

A. During that time, when the city officials tried to hold the meetings of the City Council, it was impossible to do so.

Q. Why?

A. When we started to hold our meetings, a gang of men would come in and would—

Q. Lem Williams in the gang?

A. Lem Williams and his gang would come in, probably three or four hundred men, and suggest things to the council that were impossible for us to do, throw their hats up in the air, and carry on with such ridiculous things that we absolutely couldn't carry on our
981 meetings.

Q. Were any demands made upon you and your fellow commissioners by Lem Williams and his associates in regard to the administration of the affairs of the City of Bogalusa?

A. Yes, sir.

Q. Will you tell us some of the things that they did.

A. Well, I remember one meeting they asked us to cut off the water and lights from the city of Bogalusa.

Q. Was Lem Willlams there?

A. Yes, sir, Lem Williams.

Q. Was he doing the talking?

A. Well, part of it; most of the time, yes.

Q. Cut off the—

A. Cut off the lights of the City of Bogalusa, and the water also—in fact they were cut off one night.

Q. Make any other demands?

A. Yes. The next demand was they wanted to dismiss our entire police force and put on men that were suggested by Lem Williams and his men.

Q. Any other demands?

A. When I am on the subject of the police force, I might say they interfered a good deal with the police department. While the police was trying to attend to their duties, Mr. Lem Williams wanted the police to go to him and tell him each and every man that was—

982 Objection: Mr. Higgins:

If your Honor please, I think the witness is testifying from hearsay.

The Court:

Tell only what you know of your own person knowledge, Mr. Sterns.

A. (Witness continuing). Well, those things were reported to the Commission Council, and he wanted them to make reports, the Commission Council, of the men that were arrested and get his opinion whether they should be arrested. That demand, I know, was made in the Commission Council; it wasn't made in the street.

Q. Does the city employ any plumbers in the sewerage system?

A. Yes, sir.

Q. Were any demands made in regard to them?

A. There were. There were demands made to dismiss them, dismiss the plumbers, and have it run by Lem Williams and his crowd. Furthermore, they met the trains, when a train would come in, it was impossible for men to get off of the train—

By Mr. Higgins:

Q. Were you present?

A. I was.

Q. All right.

A. I was right there. When men would get off the train with any kind of tools, if they thought they were going to work, they would force them back on the train. I saw that with my own eyes.

983 By Mr. Dufour:

Q. Did you see any armed men walking the streets on any occasion?

A. I did. I was standing on Columbia Street, and I saw a bunch of men coming down, probably thirty or forty, each one armed with a shot gun on his shoulder going down Columbia Road.

Q. What direction were they going?

A. Going towards the colored section, where the colored people live in Bogalusa.

Q. Was any attempt made at that time to organize colored labor?

A. Yes, sir; that is what they were going for.

Q. Were any threats made against you or your fellow commissioners by Lem Williams and his associates?

A. Yes, sir; they told us if we wouldn't go according to their demands, they would recall the mayor and every commissioner of the City of Bogalusa.

Q. What was the general condition of the city government at that time, in view of the circumstances that you have related?

A. What was the condition of the city?

Q. What was the condition of the government, were you able to function?

A. Oh, no; it was impossible at that time, impossible. We lived in hell for about thirty or sixty days, it

984 was really dangerous for us to be out, almost.

Q. Was the fire department unionized?

A. It was.

Q. Did you work for the Great Southern Lumber Company?

A. No, sir.

Q. Have you ever worked for the Great Southern Lumber Co.?

A. Never have.

Q. No connection with them at all?

A. None whatever.

Q. You said something about the water and the lights. Was the water and lights cut off in the city of Bogalusa?

A. They were one night. They claimed that unless we would let them operate the pumps and the plant, Mr. Williams and his crowd, that we couldn't run it.

Q. Where were those demands made?

A. In the City Hall, Commission Council hall.

Q. In an open meeting?

A. Yes, sir.

Q. Did the commissioners protest or remonstrate in any way?

A. They did; they tried to explain to them.

Q. What did they say?

A. They said that condition would be serious for the lady folks and the children, that they would suffer, and they said, that was perfectly all right, "We will all suffer together."

Q. Williams said that?

A. Yes, sir.

A.[Q.] And you were present?

A. Yes, sir.

Q. Were any other demands made on the Commission Council about particular water supply?

985 A. Yes, sir. They made another demand there. They wanted us to allow them to run

the plant; they would give water to the city but refuse to give it to the Great Southern Lumber Company and their properties.

Q. When you speak of their property, what do you mean; their mill?

A. Yes, sir, and their houses that the employees live in.

Q. Tenant houses; they wanted the water cut off from the tenant houses?

A. Yes, sir.

Cross Examination:

By Mr. Higgins:

Q. Who furnishes the electricity to the town of Bogalusa?

A. The Great Southern Lumber Company.

Q. Who furnishes the water?

A. The city furnishes the water.

Q. Through whom?

A. The city—through whom?-

Q. Yes; where do you get this water, how is it procured?

A. Wells, artesian wells, flowing wells.

Q. Where did the city of Bogalusa get its water system, from whom did it get it?

A. Whom did it purchase it from?

Q. Yes?

A. I don't know.

Q. You don't know that?

A. I don't remember.

986 Mr. Dufour:

He thinks you mean from whom did it buy the wells.

Q. Who installed the water system in the town of Bogalusa?

A. Mr.—let's see—I don't recall the name, but he was hired by the City of Bogalusa to do it.

Q. The Great Southern Lumber Company had nothing to do with that?

A. No, sir.

Q. Now, I understood you to testify that Williams wanted to unionize the employees of the city of Bogalusa; is that right?

A. No; I didn't say that.

Q. You didn't say that?

A. The employees—

Q. Of the city of Bogalusa?

A. No. He did unionize the fire department.

Q. He did?

A. Yes, sir.

Q. Well, was there any offence in that?

A. No, I don't think so.

Q. Not against the law, is it?

A. No, sir.

Q. Is it against the law for the citizens of a town to attend the city council meetings?

A. Absolutely not, if they are peaceable, but these people were absolutely uncontrollable.

Q. You say there was disorder?

A. Yes.

Q. Was anybody beaten?

A. No, but they were in a position to beat
987 you if they wanted.

Q. And you were afraid?

A. Well, not exactly.

Q. Did anybody get shot around there?

A. No.

A. Anybody get wounded?

A. Not at the meetings.

Q. The only thing you do know they did was to throw their hats up in the air; is that right?

A. Well, yes. That was enough, and the noise they made at the meeting, you couldn't transact any business, absolutely; that was enough.

Q. Did you grant any of their demands?

A. Well, no, because they were so unjust.

Q. Did you hire any union men as police officers of the town?

A. I do not remember.

Q. Is it against the law for citizens to threaten to recall the mayor and the commission council which they had elected?

A. No, sir; it is not.

Q. The law gives them that right?

A. The law gives them that right, when they are not doing their duty, I suppose.

Q. What proportion of the population of Bogalusa was union men?

A. What proportion of the population was union men at that time?

Q. Yes?

A. Very small.

988 Q. What would you say; how many?

A. Well, there was—well, I really don't know.

Q. Were not the employees of the New Orleans Great Northern Railroad union people?

A. Yes.

Q. Belonging to the Central Trades Council?

A. Yes.

Q. What other industries there employed union labor?

A. Well, practically all of them; they didn't refuse to employ men because they were union men. The Great Southern Lumber Company, if that is what you refer to, had no objection to that part of it.

Q. Well, did it employ union men?

A. Absolutely it did.

Q. What was the objection then, why were these men out of employment, why were they out of employment?

A. Why were they out of employment?

Q. Yes?

A. Well, they were out of employment at one time when the mill was broken down.

Q. What was the trouble between the Great Southern Lumber Company and these men, what was the reason for the hostility?

A. I don't know if there was any trouble. The only trouble is they made such demands, I guess, it was impossible for them to abide by them.

Q. You guess that; is that right?

989 A. Well, I know it; if it had been my business, I know it.

Q. And that is the reason why you were sympathizing with the company?

A. I wasn't sympathizing with the company. I was looking after the interests of the citizens of Bogalusa.

Q. Yet, you can't give us one instance that you granted any requests that these men made of the City Council?

A. I don't say that, but I do know that we granted some requests that were really just, I know that.

Q. As a matter of fact, didn't Williams tell you he would supply you with men to operate the water works plant, if it didn't interfere with the trouble between the labor union and the Great Southern Lumber Company?

A. Yes; he said he would supply men to operate the water plant.

Q. Did he supply any?

A. No, sir.

Q. What was the reason?

A. Because, I suppose they had men already employed in that business.

Q. Now, you say the water was cut off for one day? Is that right?

A. Yes.

Q. And the lights were cut off for one day?

A. Yes.

Q. And the lights were furnished to the town by the Great Southern Lumber Company? Is that right?

A. Yes, sir.

990 Q. The reason why the lights were cut off was because the union men would not operate the plant? Is that right?

Objection: Mr. Dufour:

He never said that.

Mr. Higgins:

I have a right to ask him that leading question.

The Court:

He can answer. He is an intelligent witness. He can say whether that is true.

A. For what reason?

Q. Why were those lights cut off that one night, if you know?

A. I really don't know just exactly why.

Q. Would you say it was because of the trouble between the union men under Williams and the Great Southern Lumber Company?

Mr. Dufour:
If he doesn't know, we will show it, we will prove it.

Mr Higgins:
I have a right to cross-examine him if he knows it.

Q. How many times did these men come to the City Council meetings?
A. I don't know; they were calling meetings all the time.
Q. Who was calling them?
A. Lem Williams and his crowd were coming after us all the time to have meetings to make demands on us for different things, probably every day or two.
991
Q. Did you have to call a meeting because Lem Williams asked you to do it?
A. No, but we tried to satisfy him.
Q. Was there any protest by Williams against the city employing special officers and paying them?
A. No; I don't know of any.
Q. None?
A. I don't think so.

Mr. Dufour:
Do you imply that he had any right to protest?

Mr Higgins:
I am asking if he did protest, as any citizen would.

Q. Do you know Mr. E. R. Cassidy?
A. I do, yes, sir.
Q. Good friend of yours?
A. Yes, I consider him a good friend.

Q. Do you know Mr. Jack Cassidy?
A. Yes, sir.
Q. Good friend?
A. Yes.
Q. Do you know Mr. W. H. Sullivan?
A. Yes.
Q. Good friend of yours?
A. Oh yes.
Q. Were any of these men that got off the train beaten by Lem Williams?
A. I didn't see Lem Williams beat any one, no, sir.

Recess to 2:00 P. M.

992 After recess.

E. R. CASSIDY: sworn and examined on behalf of the defendants, testified as follows:

Direct Examination:

By Mr. Dufour:
Q. What is your name?
A. E. R. Cassidy.
Q. How old are you, Mr. Cassidy?
A. Forty-four.
Q. Where do you reside?
A. Bogalusa.
Q. How long have you resided there?
A. Between sixteen and seventeen years.
Q. What is your present business?

A. I am Commissioner of Accounts and Finance of Bogalusa and Claim Agent for the New Orleans Great Northern Railway.

Q. How long have you been Commissioner of Accounts of the City of Bogalusa?

A. Seven years.

Q. As such, you are a member of the Commission Council?

A. Yes.

Q. How long have you been with the New Orleans Great Northern Railroad?

A. It will be ten years the first of September.

Q. What was your occupation previously?

A. I was General Manager of the F. H. Perkins Company.

Q. Where?

A. Bogalusa.

Q. What was the nature of the business of
993 the F. H. Perkins Company?

A. They ran a commissary and boarding house, meat market and things of that kind.

Q. Were you the Commissioner of Finance in October, of the city of Bogalusa, in—

A. I was, yes, sir.

Q. In the absence of the Mayor of the City of Bogalusa, who is the acting mayor of the city?

A. The Commissioner of Accounts and Finance.

Q. Were you acting mayor of the city of Bogalusa at any time during October and November, 1919?

A. Yes, sir, all through October and the early part of November.

Q. What were the conditions that made you acting mayor?

A. Mr. Sullivan had gone north.

Q. Are you familar with the conditions that existed in Bogalusa during the months of October and November 1919?

A. I am yes, sir.

Q. Will you state what these conditions were, whether they were normal or abnormal, and in what respect?

A. They were very abnormal.

Q. In what respect were they abnormal?

A. A lot of men were not working themselves, and they tried to prevent other men from doing any work, and the town was in a turmoil.

Q. Were the meetings of the Commission
994 Council peaceful and orderly?

A. They were not, no, sir.

Q. What conditions operated to make them not peaceful and orderly?

A. Well at every meeting of the Commission Council there was a crowd of boisterous men that came to make demands as to what they should do or should not do, who they should appoint, how the town should be run.

Q. Can you give us any instances of those gatherings, and what demands they were seeking to enforce through the Commission Council?

A. Yes, sir. We had during the month of October, we had meetings of the Commission Council two or three times a week, due to the abnormal conditions that then existed, and the leaders of the crowd, headed by Mr. Lem Williams, came there and made demands that the chief of police be recalled, certain men working for the city be turned out of their jobs, and men whom he and his crowd would select should be appointed in their stead.

Q. Do you recall whether the light and water system was operating continuously at that period?

A. It was not.

Q. When was the interruption, and what was it due to?

A. I don't recall the exact date, but I think it was some time in the early part of October, the
995 Police Department reported to me that the men working on the night shift of the Great Southern Lumber Company had been intimidated at the gate—

Objection: Mr. Higgins:

Now you are testifying what somebody told you; you were not present.

The Witness:

I was not present.

Mr. Higgins:

Then I object.

Mr. Dufour:

It was reported to him, as mayor of the town, of a disorder that existed.

Mr. Higgins:

He should not be permitted to go into details.

The Court:

I think he had better not testify to any specific act; just the reports, and the result.

A. (Witness continuing) The result was that the town was without lights and water, and I called a special meeting of the commission council to devise ways and means to try to keep them going. At this meeting, Mr. Williams came with his crowd, and I appealed to him as a man, told him the condition that then existed

in the city and would exist, and if that were allowed to go on, the children and women would be suffering in a few days. He said that the only way he would consent to remedy the condition would be for him to select the men that were to go in there and operate
996 this plant, the water and lights, and if the Great Southern Lumber Company was not willing to agree to that, they would all suffer together.

Q. Were any demands made with respect to the police force?

A. Absolutely. They first told us we had to get rid of the chief—that was one of their stipulations—otherwise they would recall the mayor and the commissioners, and if it was necessary to appoint additional police, they demanded that they have the right to select these men.

Q. You mean additional paid police?

A. Yes, sir, additional paid police.

Q. They wanted to have the privilege of selecting those men?

A. They did, yes, sir.

Q. What were the conditions that existed around the depot at that time on the arrival of trains?

A. The condition was, all men coming in there, millwrights to repair the mill that had broken down, they were met at the station by these men, who ordered them back on the train, threatened them with bodily harm if they didn't go back, compelled them to go back on the train and to leave the city.

Q. As acting mayor of the city, did you know of any armed men marching the streets?

A. I did. My office was right diagonally across from the depot. I saw the mob down there, and I
997 went down and saw men with guns on their shoulders, and I took some of them up personal-

ly, took those men up in my office and remonstrated with them, and asked them for the sake of the women and children to be calm.

Q. Were Williams and his men satisfied with the personel by which you were operating your pumping stations and your sewerage system?

A. They were not. They said that the men down there were unsatisfactory to them, and they demanded the right to have them taken out and men put in whom they selected.

Q. Were these meetings peaceful and orderly meetings in which citizens—

A. They were not. The first meetings we had in October were absolutely dominated by these men; the Commission Council was at their mercy: we had to do pretty much as they told us to do. Later on, the citizens of the town, seeing the chaotic condition which the town had drifted into voluntarily came to me and offered their services.

Q. As special police?

A. Well, not as special police at first. I would like to go into details and explain just how that came about.

Q. Go ahead.

A. There was one meeting we had of the Commission Council—conditions just got so unbearable, I got
998 up and told them personally I didn't propose to stand for it any longer, they were threatening me with recall and threatening the mayor with recall, and the prominent business men of the town approved of the stand I had taken, and the next day or the day after a committee came to my house and told me the business men of the town had banded themselves together to assist the city authorities in maintaining law and order during that troubled time. I asked them

who comprised this Self Preservation and Loyalty League, as they called themselves, and they invited me to come down to the City Hall and see, and I went down there and I found lawyers and bankers and men engaged in commercial business, and they told me those were the me that had put themselves at the disposal of the city government. Someone suggested that they be sworn as special police, and I consented to that provided they would work under the direction and supervision of the chief of police, and they all agreed to that. They were sworn in verbally, and in order to have a record of the names of those who were special police, I asked our City Clerk, who was also a Notary Public to have each man sign an affidavit—I mean an oath of office.

Q. Did you take any advice as to what authority you had to do that?

A. I did. Conditions were getting so bad,
999 I feared there was going to be bloodshed. First I wrote to the Governor, who was then Governor Pleasant, that the city authorities were unable to cope with the situation that then existed, and asked if possible to have some troops sent over there to maintain law and order, and I received a communication from his secretary, stating that the Governor was out of the state, and that as soon as he came back the matter would be brought to his attention. I waited a week or so and received no reply. I then went down to the City Attorney, who was Mr. Talley then and also the present City Attorney, and sought his advice, and he recommended that I appoint a number of additional police. I wanted to be absolutely sure of my ground, and I then went to the District Judge—

Q. Who was he?

A. The Honorable Prentiss Carter —he is still judge —and I explained the situation in Bogalusa to him, told

him I had in mind appointing a number of additional police, told him that had been recommended by the City Attorney, and asked him if I had a legal right to do so, and he said yes, appoint ten or a hundred or a thousand if necessary, just as many as were necessary to maintain law and order, and also I went to the City Judge, who was Judge Ott, and he is the present City Judge, and he gave me the same advice, and after I got that advice, I swore those men in as special police.

Q. And your purpose in swearing in those special police was to maintain law and order in the City of Bogalusa?

A. It was.

Q. Of which you were at that time the acting head?

A. Yes.

Q. You say that Williams and his associates would come there in crowds?

A. They did.

Q. To your meetings?

A. Yes.

Q. How many men would constitute those crowds?

A. I would estimate about three or four hundred.

Q. Were they an orderly crowd?

A. Not very, no, sir.

Q. What do you mean by "not very"?

A. Well, one fellow would get up and make a rip-roaring speech, to use a slang expression, and they would all applaud and stamp their feet, and it would be may be five or ten minutes before I could get order again, and then somebody else would get up and make a speech and tell what they were going to do with the different city officials, the Police Department and the mayor.

Q. Were any of the men at those meetings armed?

A. A number of the men had guns in their hip pockets, yes.

Q. Was that the exception or the rule?

1001 A. It was the rule. I don't say they all had them, but I noticed a number of them did.

Q. Did you ever work for the Great Southern Lumber Company?

A. Never did, no, sir.

Cross Examination:

By Mr. Higgins:

Q. Mr. Cassidy, how tall are you?

A. I think I am about six feet one and a half inches.

Q. Were you that tall on November 22nd, 1919?

A. I am unable to answer that question. Approximately, I think so.

Q. About the same weight you are now?

A. Yes, I think so.

Q. How much do you weigh now?

A. About 215 pounds.

Q. You are a brother of Jack Cassidy?

A. Yes.

Q. Is he the assistant general manager of the Great Southern Lumber Company?

A. He is, yes, sir.

Q. Do you know whether or not the New Orleans Great Northern Railway Company is owned by the same interests that own the Great Southern Lumber Company?

A. I know some of the stockholders are the same; I can't say they all are.

Q. Don't you know it is owned by the Good-

1002 year people?

Mr. Dufour:
No, and you don't either. It is not, as a matter of fact.

Mr. Higgins:
I am asking him if he knows it.

A. I know they have stock in it; I don't know if they own it.
Q. Now you were acting mayor while Mr. Sullivan was absent?
A. Yes, sir.
Q. And he is the general manager of the Great Southern Lumber Company?
A. He is, yes, sir.
Q. Had you ever acted as mayor before that time?
A. Yes, sir, several times.
Q. Due to his absence?
A. Yes, and when he is sick.
Q. What is the population of Bogalusa?
A. It is estimated at fifteen or sixteen thousand.
Q. Do you know what proportion of the population belonged to these labor organizations?
A. At the present time?
Q. No; at that time.
A. No, sir, I do not.
Q. How many men were employed by the Great Southern Lumber Company when it was in operation?
A. I don't know.
Q. How many men were employed by the railway company?
A. I don't know just exactly. I think ap-
1003 proximately about 1500.
Q. Do you know whether the railway company employed union labor?
A. Yes, sir, they do.

Q. Now did the city council and yourself acting as mayor meet the demands of these union men that congregated there?

A. In so far as they were reasonable, we tried to meet their demands, but they became so ridiculous that we absolutely couldn't go any further.

Q. For instance, what demands did you meet?

A. Well, some men were objectionable to them that were on the police force. We fired one or two of them. And then there was—they wanted a special meeting called to consider this—we called one of those meetings at their instance—oh, different little things that came along from time to time.

Q. Who furnished the electricity for the town of Bogalusa?

A. The Great Southern Lumber Company; the city has a contract with them.

Q. And the men who worked in the electric plant of the Great Southern Lumber Company were not working for the city, were they?

A. No, sir.

Q. Do you remember who those two or three men were that you spoke of that they objected to as
1004 serving on the force?

A. Chief Magee was one. Mr. Rogers was another that I know of.

Q. Did you fire those men?

A. No. Mr. Rogers was up in a section where there was a large body of them, and to try and pacify them, we took him from that section and put him in another.

Q. Was the chief appointed, or is he elected?

A. He is appointed by the mayor and the commission council.

Q. Williams asked you as the acting mayor to have him removed?

A. He didn't ask. He made demands on the Commission Council and his men as a body.

Q. To withdraw his appointment? Is that right?

A. Yes, sir.

Q. Now how long was the city without water?

A. One or two days.

Q. One or two days?

A. I am not just certain. I think it started one day and went up to noon of the next day. They were not absolutely without water, for the reason the city itself had two little pumps down at the pumphouse station, and you could get water at certain times of the day, but the places up on the hill, the greater portion of the city were in total darkness one night, no electric lights.

1005 Q. One night?

A. Yes, sir, one night.

Q. What was the reason why the lights were out that night?

A. Because they wouldn't allow the men to go into the powerhouse, the men that had been operating the plant, they held them out at the gate.

Q. How do you mean, "held them out at the gate"?

A. Met them at the gate and told them if they went in to work they would suffer bodily harm.

Q. Was Lem Williams there?

A. Yes.

Q. Were you present?

A. No, but I was informed by the police.

Q. Then you don't know of your own personal knowledge.

Mr. Dufour:

Why you asked him the question.

Q. You were not there?

A. No, sir.

Q. And you are testifying to what somebody told you?

A. I testified just as I told you, what I was informed by the police department. That was your question.

Q. You don't know as a matter of fact whether Lem Williams was there?

A. I wasn't present to see, no, sir.

Q. How long were the lights out, you say?

A. I am not absolutely sure, but I know they were one night.

Q. Did you appoint any union men as policemen at all?

A. Yes, sir.

Q. How many?

A. A number of them. I just—I didn't make any discrimination between union men and non-union
1006 men at all.

Q. How many did you appoint?

A. Well, I imagine one-third or one-half were union men.

Q. Can you name them?

A. No, sir, but I appointed some of them at Mr. Williams' suggestion, or the Commission Council did.

Q. Were they special officers or regular officers?

A. They were special officers.

Q. Were they members of the Loyalty League?

A. I don't think so.

Q. Were you present at the time they had trouble at the train where they had men coming into town to work?

A. My office overlooks the trains, and I saw a commotion down there and ran down to see the trouble, and I was informed, and I saw the officers taking those men down to jail.

Q. You were not present when the actual trouble took place, were you?

A. No, sir, I was not.

Q. And all you have testified to is what somebody told you?

A. No, sir, what I heard in Court.

Q. What you heard in Court, but not what you saw?

A. I didn't myself, but they convicted them in Court.

Q. What did they charge these men with?

A. Disturbing the peace, I believe.

Q. They paid their fines, I suppose?

A. No; as I recall, they appealed the cases.

1007 Q. What disposition was made of them?

A. I don't know, sir.

Q. You don't know whether they were convicted or not on appeal?

A. They were convicted in the City Court. I don't know just what happened to them in the District Court.

Q. Who did you say the judge was?

A. Carter, Judge Carter.

Q. And who did you say the judge of the City Court was?

A. Judge Ott.

Q. And who was the city attorney at that time?

A. Mr. Talley. He is still the city attorney.

Q. You say you consulted some other lawyer besides that?

A. I consulted Mr. Talley, Judge Ott and Judge Carter.

Q. Now have you got those oaths that you administered to those men, these written oaths?

A. No, sir, but they are in the files. I think they are probably in Court. Either the chief of police or the City Clerk has them.

Q. You mean over at Bogalusa?

A. No; I think they are here in New Orleans.

Call: Mr. Higgins:

If your Honor please, I call for the production of those oaths.

The Court:

If they are in charge of the city, you will have to call on somebody representing the city.

1008 Q. Will you produce them?

A. There they are, right there, Mr. Higgins (witness indicating).

Q. Will you kindly show me the names of the union men that you appointed on there.

A. Now listen, my friend. This is the Self Preservation and Loyalty League. This didn't have anything to do with the men appointed by the City Council, but the men I appointed as special policemen on this particular date I referred to.

Q. There are no union men on that list, are there?

A. I think there are. (Witness refers to paper). Yes, here is one, Mr. C. K. Mullens. He is a union man.

Q. Mr. Who?

A. Mr. C. K. Mullens.

Q. Mullens?

A. Yes, sir.

Q. All of these men were members of the Loyalty League, you say?

A. Here is another union man (witness referring to paper).

Q. What is his name?

A. Lively.

Q. Lively?

A. Yes. W. P. Stratton, he is a union man. T. C. Knight, he was a union man.

Q. Were all of these men members of the Loyalty League?

A. I presume so. (Witness refers to paper). They were all, all the individuals there were members
1009 of the Loyalty League.

Q. Who was the chairman?

A. Mr. Cowgill.

Q. Mr. Cowgill and all of these men were members of the Loyalty League at that time?

A. Yes, sir.

Q. And you swore them in as deputy city commissioners?

A. I swore them in as special police officers.

Q. Was W. C. Magee a special officer of the city of Bogalusa prior to this appointment?

A. I am not positive whether he was or not. We appointed six or eight or ten, something like that, previous to that date, but I don't recall whether W. C. Magee was one of them or not.

Q. Well, if he was a special officer before that, he would have no occasion—

A. No, sir, no occasion to have him sworn in again.

Q. Is the date as certified on here as the date these men were sworn, the actual date they were sworn?

A. They were sworn in October some time.

Q. October 29, 1919, it says (counsel exhibiting document to witness)?

A. I recall now it was in October, but I can't swear to the exact date, but I know this is the time, because these men signed this before I left the building, most of them, that is—they were still signing when I
1010 left the building. I swore them verbally, and then Mr. Bean—

Q. As a matter of fact, that is the correct date, is it?

A. I think it is.

Q. Can you tell me whose signature that is?

A. Which one?

Q. The third.

A. R. S. Carson, I think.

Q. Is that Robert S. Carson?

A. Yes, sir.

Q. And whose signature is this?

A. W. C. Magee. That is the name and the signature too.

Q. Are these all the special officers you appointed on that occasion?

A. All that were present at that time and signed it; yes.

Q. How many special officers did you have besides the ones you have on here?

A. I don't know; that would be hard to say.

Q. Can you estimate them?

A. No, sir, I can not. I imagine somewhere in the neighborhood of sixty or seventy-five, all told, regular police and special police.

Q. You say you saw some men with guns?

A. Yes, sir.

Q. What kind of guns?

A. Well, looked something like this (witness indicating).

Q. Where did you see them?

A. Right down under my office; between my office and the depot.

1011 Q. And you went down and got the guns?

A. Yes, sir, took one man.

Q. Did he offer any resistance?

A. No, sir.

Q. Was he arrested?

A. No, sir.

Q. You say the union men threatened to recall the mayor?

A. I don't know whether they were union men; they came along with Mr. Williams.

Q. You say they threatened to recall you?

A. If we didn't carry out their orders, yes, sir.

Q. And you told them to start in on that; is that right?

A. There was a mass meeting. That is what I told them, yes.

Q. Now you were present when the Self Preservation and Loyalty League was formed, you say?

A. I was not.

Q. You visited their meetings?

A. I think I visited one meeting just about the time they went out of existence; I didn't go over to them or any of them, until just about the last, or next to last meeting that they ever had.

Q. Did you ever see Major Guerre there?

A. No, sir.

Q. Did you ever see Mr. Levert there?

A. I don't think so.

Q. Mr. Bienn, Dave Bienn?

A. I can't recall that I did. That was six years ago. I don't remember.

Q. Do you recall whether you saw Mr. Lindsley there?

A. Yes; Mr. Lindsley was there, I think.

1012 Q. Chief Magee?

A. No—well, he might have been there, but I don't recall that he was.

Q. Did you ever see Mr. Jack Cassidy there?

A. No, sir.

Q. You say you asked the Governor to send troops?

A. Yes, sir.

Q. He didn't send them?

A. I received a reply from his secretary, as I stated before, stating that the Governor was out of the state, and as soon as he returned, the matter would be brought to his attention.

Q. Do you know whether or not troops were sent there on the call of Lem Williams?

A. They were.

Q. How long did they stay there?

A. That I don't remember, but they stayed quite a while, I imagine a month or so.

Q. Did you send for the troops on that occasion?

A. No.

Q. Do you know who did?

A. No, sir, I do not—it is hearsay the same as—

Q. Now were you in Bogalusa on the day of the trouble?

A. No, sir. I wasn't in town at all, I was absent for several days.

Q. So that you don't know anything that happened on November 22nd, 1919?

A. I do not.

1013 Q. You say you saw some men with guns in their pockets?

A. Yes, sir; I saw the (witness indicating) of the hip pocket.

Q. You are positive of that?

A. Yes, sir.

Q. Did you arrest them?

A. No, sir.

Q. You were acting mayor?

A. Yes, but I have already explained to you the condition that existed then; we were not in position to arrest anybody—hardly.

Q. Did you make any charge against them?

A. I did not. I thought if we could bring the matter over, pacify them without causing any trouble, we were going to do so.

Q. You know as a matter of fact that Williams was arrested at the depot for disturbing the peace?

A. I do, yes, sir.

Q. And he was put in jail?

A. Yes, sir.

Q. You were present on that occasion, were you?

A. Which?

Q. When Williams was arrested.

A. I told you that I saw the commotion from my window up in the office, and started over, and before I got over to the depot, I met some one who told me what had happened, and saw these men being marched down to the jail.

Q. Now for whom were those men going to work that were on the train?

1014 A. They were going to work for the Great Southern Lumber Company; they were brought there to repair the mill, millwrights.

Q. That was before the shooting, wasn't it?

A. Yes.

Q. Who was in your place as acting mayor when you were out of town?

A. I tried not to be out of town during Mr. Sullivan's absence; the time was too critical to leave; I stayed there all the time that he was away until the time he came back.

Q. And who replaced you when you were away? You say you were away on November 22nd?

A. Mr. Sullivan had returned by that time.

Q. As a matter of fact, he was in Bogalusa on the day of the killing?

A. Yes, sir.

Q. Now was anybody ever shot at any of these City Council meetings?

A. Right at the council meetings?

Q. At the City Council meetings?

A. No, sir, never.

Q. Was anybody ever beaten?

A. Not at the City Council meetings, because we tried to keep a semblance of order, if possible. We had the police there, although they were not very effective, and that mob, I will admit—

1015 Q. How many police did you have there?

A. Regularly, about ten.

Q. Were these uniformed policemen, have uniforms on?

A. Yes, sir.

Q. You say there were ten regular police?

A. We had approximately ten regulars at that time, yes, sir.

Q. Every time the City Council met you had these ten policemen?

A. I instructed the police to come up, yes, sir.

Q. Can you name who they were?

A. No; offhand, I can't. I remember the six, the same six we have now, was on at that time.

Q. Do you remember anybody else?

A. I think we had a Mr. Hoey, and I am not sure whether Mr. Barnes was on then or not. He is on now. It has been quite a while ago. Mr. Branche was one of the regular men. That has been so long ago, I don't know if I can recall the personel of all.

Q. Now you say these men were guilty of making riproaring speeches, applauding, kicking their feet?

A. I don't know if they were guilty or not; they did it.

Q. And that is the disorderly conduct that you speak of, at the meetings?

A. And they were making inflammatory remarks, threatening; threatening the City Council, threatening the mayor, telling the council what would be the

1016 result if we didn't recall this or that officer or somebody.

Q. You mean they would recall you; is that what they threatened you with?

A. Yes.

Offer: Mr. Higgins:

In connection with the testimony of the witness, I am going to offer these oaths marking same for identification "P-4."

By Mr. Dufour:

Q. Mr. Cassidy, what was the occasion, if any, for your being absent on November 22, 1919, from Bogalusa?

A. I was on my wedding trip at that time.

K. I. BEAN, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. What is your name?

A. K. I. Bean.

Q. Where do you reside?

A. In Bogalusa.

Q. Do you occupy any official position there?

A. I am City Clerk of the City of Bogalusa, and, by virtue of that office, City Auditor.

Q. As City Clerk of the City of Bogalusa, are you custodian of the records of the city government?

1017 A. I am.

Q. Are the records of the Police Department of the City of Bogalusa, and particularly its payrolls, in your custody?

A. The payrolls are entirely in my custody.

Q. Have you the payrolls of the Police Department of the City of Bogalusa for the months of October and November?

A. I have.

Q. What other payrolls are in your department?

A. The entire payrolls of the city, including the School Department—all departments.

Q. And you have the payroll of the Police Department?

A. Yes, sir.

Q. Have you the payrolls of the Police Department for the months of October and November, 1919?

A. I have the payroll for the month of November, that is the only ones I have, just the month of November (witness producing documents), the originals and certified copy.

Q. I suppose you have brought the certified copy so as to withdraw the original?

A. Yes, sir, so as to keep my files intact.

Q. The document which I show you in two pages, is the payroll for what period?

1018 A. The city pays off twice a month, and this is for the first half, the 1st to the 15th, and this is from the 16th to the 30th, inclusive.

Offer: Mr. Dufour:

In connection with the testimony of the witness, we offer, introduce and file in evidence the payroll of the City of Bogalusa for the first half of November, 1919, and the second half of November, 1919, and ask leave to withdraw the original and substitute certified copies, so that the original may be returned to the records of the city.

Q. Is this document a certified copy of the payroll?

A. It is.

Q. That is a correct copy?
A. Yes.

Cross Examination.

By Mr. Higgins:
Q. Mr. Bean, you are a brother of one of the defendants in this case, are you not?
A. No, sir.
Q. Not related?
A. Not at all.

By Mr. Johnson:
Q. How do you spell your name?
A. B-e-a-n.
Q. How does Mr. Dave Bienn spell his name?
A. B-e-i-n-n.

1019 CHESS MIZELL, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Johnson:
Q. What is your name?
A. Chess Mizell.
Q. What official position, if any, do you hold in the Parish of Washington?
A. Clerk of Court.
Q. As Clerk of Court, are you custodian of the records of the Twenty-Sixth Judicial District Court, Parish of Washington?
A. I am.

Q. Mr. Mizell, state whether or not to your knowledge, there has been an investigation of the killing of Lem Williams and others by the Grand Jury of the Parish of Washington?

A. Yes, sir; there has been three.

Objection: Mr. Higgins:

If your Honor please, I want to object to any attempt to introduce any grand jury proceedings in this case.

Q. Mr. Mizell, I hand you a document, which is indorsed "No Bill"—

Objection: Mr. Higgins:

Now, if your Honor please, I think that the proper way to present a document to the witness is to present the document and ask him if he can identify it.

1020

Mr. Johnson:

I certainly will try to do so.

The Court:

I don't think that is relevant.

Mr. Johnson:

I would like to make up the record, if your Honor please. There is nothing in the record yet to show what this document is. If counsel like, they can have the jury withdrawn.

The Court:

I understand the question to the witness is objected to. I will have to sustain the objection. Of course your rights will be reserved.

Mr. Johnson:
We reserve a bill.

Q. Mr. Mizell, please examine this document and state whether or not this is an official document from the Twenty-Sixth Judicial District Court, Parish of Washington? (Document in question handed to witness. Witness examines same).
A. This is a true copy of the bill on file in my office.
Q. Is this indorsement on this document identical with the indorsement on the original?
A. Yes, sir.

Offer: Mr. Johnson:
In connection with the testimony of the witness, we produce and file in evidence the copy of the document testified to.

1021 Objection: Mr. Higgins:
To which offer counsel makes the same objection as previously urged, that the document is irrelevant, hearsay, in so far as we are concerned. We had no opportunity to cross-examine the witnesses. It is a document in a criminal proceeding and represents the opinion of the Grand Jurors as to the criminal status of a case, and has no bearing at all upon a civil case.

Mr. Johnson:
We would like to state that the testimony is offered to rebut the positive allegation of plaintiff's petition that these individual defendants were murderers and that there was a conspiracy to commit murder. We tender this evidence to rebut that allegation.

The Court:
I sustain the objection.

Mr. Johnson:
We reserve a bill.

Q. Mr. Mizell, have you the original report made by the Grand Jury for the Parish of Washington as relates to the investigation of the killing of L. E. Williams and others?

A. I have.

Q. Is this the original report which you have?

A. It is.

Q. Please examine the document I now hand you and state whether or not it is a true copy, certified to by yourself, of the original report? (Document in question handed to witness. Witness examines same.)

1022

A. It is.

Q. State, if you know, what Grand Jury made this report, the first, second or third Grand Jury that investigated?

Objection: Mr. Higgins:
I object.

Mr. Johnson:
I want the document identified; that is all.

The Court:
I sustain the objection.

Mr. Johnson:
We reserve a bill.

Q. This is a report made as of the date of the document?

The Court:
Does the document show the date?

The Witness:
Yes, sir; July, 1923. This is the third.

Offer: Mr. Johnson:
In connection with the testimony of the witness, we produce, offer and file in evidence the original report made by the Grand Jury as of the date thereon, with leave to withdraw the original upon filing a certified copy.

Objection: Mr. Higgins:
To which offer the same objection is urged as was urged to the other report.

The Court:
I sustain the objection.

Mr. Johnson:
We reserve a bill, attaching copy of the document to the bill.

1023 Cross Examination.

By Mr. Higgins:
Q. Did you ever have this gun in your possession (counsel indicating)?

Objection: Mr. Dufour:
We object. That is not relevant to any question asked on direct examination.

The Court:
He has not testified to anything about a gun.

Mr. Higgins:

All right. No questions.

R. A. DUNNAWAY, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination.

By Mr. Johnson:

Q. What are your initials, Mr. Dunnaway?

A. R. A., R. A. Dunnaway.

Q. I didn't catch that?

A. R. A.

Q. Where do you live?

A. Bogalusa.

Q. What is your business?

A. I am running a filling station at the present time.

Q. Were you living in Bogalusa on November 22nd, 1919?

A. Yes, sir.

Q. How long had you lived there?

A. Between nine and ten years.

1024 Q. Do you recall the day on which Mr. L. E. Williams and two other men were killed in Bogalusa?

A. Yes, sir.

Q. Were you living there at that time?

A. Yes, sir.

Q. Had you been in Bogalusa continuously up to that time?

A. No, sir; I had been out of Bogalusa nearly two weeks till the Friday night before it happened.

Q. When did you return to Bogalusa?

A. I came down on that night train.

Q. What time did you reach Bogalusa?

A. 8.30, I believe.

Q. Coming from where?

A. Columbus, Mississippi.

Q. Do you remember the day of the week?

A. It was Friday night.

Q. Did you have occasion to visit the office of Mr. Lem Williams the following day, Saturday?

A. Yes, sir; I stopped in there on Saturday morning.

Q. What time were you there?

A. Must have been about 8.30, I believe, 8.00 or 8.30; something like that.

Q. When you reached Mr. Williams' place that day, whom did you find there?

A. Mr. Williams was there and his—

Q. A little louder, please. The jury have got to hear what you say.

A. Mr. Williams was there and his wife and little boy; also Sol Dacus was there; he was in the
1025 office there.

Q. How long did you remain at Mr. Williams' place?

A. About an hour or an hour and a half, probably, two hours; I don't know just exactly how long I did stay.

Q. Did anyone else come there during the time you were there?

A. Yes, sir; there were several different fellows came there.

Q. During that time, what was done or said to you in regard to the colored man, Sol Dacus, by anybody?

A. Well, he wanted some of us there to go down with him to his house, you know, and so Mr. O'Rourke and Mr. Bouchillon came shortly after that, and he wanted to go down to his house, you know, and they

wanted me to go down with him, and I told them I couldn't go, so they went on ahead down there and I was left in the office.

Q. Who wanted you to go?

A. Mr. Bouchillon was the one that asked me, I believe.

Q. Anybody else solicit you to go?

A. Yes; Mr. Lem asked me to go with him.

Q. State whether or not you saw any arms there.

A. Well, I saw some arms as they went off with the darkey.

Q. Who had the fire arms?

A. Mr. Bouchillon and Mr. O'Rourke.

Q. They were armed?

A. Yes, sir.

Q. What was said to you, if anything, in regard to your not going or agreeing to go?

1026 A. Nothing particular; they only asked why I didn't want to go, and I told them I didn't care to be mixed up in it.

Q. Who asked you?

A. Mr. Lem Williams; asked me why I didn't want to go.

Q. Did you state why you didn't want to be mixed up?

A. I just told him I didn't care to go down; I said if I was him, I would call up the police station and let them attend to it; I didn't want to be mixed up in it.

Q. You told him, if you were he—

A. If I was he, I would call up the police station; that is what I said.

Q. What time did you leave there that morning?

A. Well, the 10.00 o'clock train left before I left. I was intending to go to the train, but some how I kept staying until it was too late for me to get away; the train left before I could get there.

Q. Did you hear anything said as these men were carrying Dacus away, about staying with him, or anything remarked by anybody in regard to Dacus' arrest?

Objection: Mr. Higgins:
I object to that as leading.

Q. What was said, Mr. Dunnaway, as they left?
A. As they left, he just says, "If any one tries to serve him, stay with him, stay with the old darkey."
Q. Who said that?
A. Mr. Williams said it.
1027 Q. Who was he talking to?
A. He was talking to Bouchillon and O'Rourke.
Q. What reply was made, if any?
A. They said, "We'll stay with him," they said "We'll stay with him."
Q. You say none of them made any statement to you as to your not going?
A. No, sir, none, except he asked me why I didn't go, and I said I just didn't want to get mixed up with anything of that sort at all.
Q. Did he ask you any further reason why you didn't want to go?
A. No, sir.
Q. Were you summoned here last week?
A. Yes, sir.
Q. Do you know who summoned you?
A. No, sir.

Cross Examination.

By Mr. Higgins:
Q. What time in the morning did you say you went there?
A. 8.00 or 8.30 in the morning.

Q. And how long did you stay?

A. Stayed till the 10.00 o'clock train blew for Bogalusa.

Q. Did you leave on the 10.00 o'clock train?

A. No, sir; I didn't leave on the 10.00 o'clock train. I started over to the depot and happened to stop in there that morning.

1028 Q. What time did you leave Bogalusa?

A. How is that?

Q. What time did you leave the town?

A. I didn't leave the town at all; I stayed on in Bogalusa.

Q. You were supposed to take the train, but you didn't take it?

A. No, sir; I was going over to the depot to meet the train that morning, but I just kept staying around there and never did meet the train.

Q. Now can you name who was in the office at the time you were there?

A. Mr. Bouchillon and Mr. O'Rourke and Mr. Williams and Mr. McAlister, I recollect him being there—Mr. Bourgeois—no, not Mr. Bourgeois—Mr. Richau—not Mr. Bourgeois, he wasn't there while I was there.

Q. And Mrs. Williams was there?

A. Mrs. Williams was there, yes, sir.

Q. And her little boy?

A. Earl, her little boy, yes, sir.

Q. Those were the only ones you saw?

A. Those were the only ones. Well, there was some more came in that I didn't know, coming back and forth while I was there.

Q. Was Jim Williams there?

A. No, sir, he wasn't there while I was there.

Q. You say you saw some guns there?

1029 A. I saw Mr. Bouchillon and Mr. O'Rourke with a gun apiece.

Q. Whom did you see; you say Mr. Bouchillon and Mr. Roads?

A. Mr. O'Rourke; Mr. O'Rourke and Mr. Bouchillon.

Q. What kind of guns did they have?

A. One had a double barreled shot gun and the other had a pump gun.

Q. What time was that?

A. I guess it must have been about 9.00 or 9.30 when they left.

Q. Sure of that?

A. Somewheres about that time, yes, sir. I didn't have any watch, but it was somewheres around 9.00 or 9.30 when they left.

Q. Did you stop there till they came back?

A. No, sir, I didn't.

Q. What time did you leave Williams' office?

A. I left there just after the train blew for Bogalusa, shortly afterwards.

Q. Did you see any other fire arms besides the ones that O'Rourke and Bouchillon had?

A. No, sir, I did not.

Q. Did you see Mr. Norman Simmons there that morning?

A. No, sir, I did not.

Q. Positive about that?

A. How is that?

Q. I say, are you positive about that?

A. I am positive I didn't see him that morn-
1030 ing, yes, sir, I am.

Q. Did you see Bouchillon nail up any boards in the window facing Columbia Road in the office?

A. No, sir.

Q. Were there any boards on that window that morning while you were there?

A. I don't recollect.

Q. You didn't see any, did you?

A. No, sir.

Q. Do you remember whether the window was open or closed?

A. No, sir; I don't recollect a thing about it.

Q. You were in the office, were you not?

A. No, sir; I never was in the office.

Q. Where were you?

A. I was outside, between the office and Mr. Lem's house; that was as far as I went.

Q. And you stayed out there all that time?

A. I stayed down there quite a while; yes, sir.

Q. And you stayed outside; you didn't go in?

A. I didn't go in the office, no.

Q. Where was all this conversation taking place that you spoke of?

A. There, in the yard.

Q. In the yard; it wasn't in the office?

A. No, sir; it wasn't in the office, not what I heard of it.

Q. Lem Williams was out in the yard with Sol Dacus; that is correct, is it not?

1031 A. Yes; he was out in the yard with him, yes.

Q. (Counsel exhibits drawing to witness). That is Columbia Road (counsel indicating)?

A. Yes, sir.

Q. And that is the two story building next to the Williams' property?

A. Yes.

Q. This is Williams' office, this is his garage, this is his residence. Now which part of the yard were you standing in?

A. I think the first little while, Sol Dacus was over here (witness indicating), and Mr. Williams was in his office, when I went that morning, he was over here (witness indicating), and Sol was over here (witness indicating), so when I went in Mr. Lem came to the door and shortly after he came out; when he hollered at me, he was over here (witness indicating) in the office.

Q. Sol was in the office?

A. Sol was in the office when I first came that morning.

Q. And he came out in the yard?

A. Came out in the yard.

Q. Was there anything preventing any one from seeing him from the street?

A. No, sir, nothing.

Q. He wasn't hiding in there, was he?

A. No.

Q. And you stayed out there from 8.30 to
1032 about 10.00?

A. I stayed here (witness indicating), back here in the yard from that time until about 10.00 o'clock, after the train came.

Q. And all this conversation that you spoke of took place out in the yard?

A. Out in the yard; all I heard was out in the yard.

Q. Now you say you didn't notice whether this window was boarded up or not?

A. No, sir.

Q. Did you notice whether that door was closed or not?

A. No, the door was not closed; it was closed when I came, but he opened the door and stuck his head out of the door.

Q. Who was that?

A. That was Sol.

Q. Sol Dacus?

A. Yes, sir.

Q. He was in the office?

A. Yes, sir.

Q. Opened the door and stuck his head out?

A. Yes, sir.

Q. Then he didn't come out of the office?

A. He came out shortly after, but at that time he didn't; just after Mr. Lem came out, he came out in the yard.

Q. Were O'Rourke and Bouchillon in the office at that time?

A. I think they was; I didn't see.

Q. What time did they come there?

A. They came there shortly after I got there.

1033 Q. Did you see them when they came in the yard?

A. No, sir; I didn't see them till they walked to where we were sitting.

Q. We were sitting between the house and there (witness indicating).

Q. You were in the yard?

A. Yes, sir.

Q. They came in through the same way you did?

A. I don't know how they came in; they was right by me before I noticed them.

Q. When they came there, did they have a gun?

A. Yes.

Q. Shot gun?

A. Yes; shot gun and pump gun of some kind they had, same gun they had when they left, yes, sir, the same.

Q. Did you notice whether they had any hunting bags with them or not?

A. No, sir.

Q. Didn't notice any?
A. Didn't notice.
Q. You won't swear they didn't have any?
A. I won't swear they didn't have any; if they did, I didn't see them.
Q. So Williams sent Bouchillon and O'Rourke with Dacus so Dacus could go home; is that it?
A. They went off with him.
Q. You didn't stay there till they came back?
A. No, sir, I did not.

1034 Re-Direct Examination.

By Mr. Johnson:
Q. What was said, if anything, about their coming back; how were they coming back?

Objection: Mr. Higgins:
I object to that as a leading question.

Q. Was there anything said about their coming back?
A. No, sir; if there was, I didn't hear it.
Q. What kind of gun did Bouchillon have; did it look like this gun lying on the table (Counsel indicating)?

Objection: Mr. Higgins:
I object to that as leading.

A. A pump gun? I couldn't tell what kind; a pump gun or a double barreled shot gun.
Q. What direction did they go when they left there to go with Dacus? (Counsel exhibits drawing to witness). This is the office and this is the house. Which way did they go?

A. They went right through the garage, right out to the back.

Q. Through the garage and out at the back?

A. Yes, sir.

Q. About what time of day was that?

A. Must have been about 9.30, between 9.00 and 9.30, I guess.

Q. Where did you go—when you reached there that morning, you say Sol stuck his head out of the
1035 door?

A. Yes, sir.

Q. What did he say?

A. He said, "They near got me last night." I said, "If they did, I never heard anything about it," and I says, "Sol, they ought not to act like that," so one word brought on another and I came up pretty close to him, he didn't come out then, but he came out shortly after, and I walked up to where he was.

Q. You stated a moment ago that you were summoned last week?

A. Yes, sir.

Q. Were you here all the week?

A. Oh, yes, sir.

Q. You don't know which side summoned you?

A. Oh, yes; Mr. Williams side summoned me, I understand—I thought you asked me who—

Q. Will you state why you went by Mr. Williams' house that morning?

A. I had started for the train that morning and just stepped in there, you know.

Q. Did you have anything to say to him?

A. Yes, sir, I did. I told him I was intending—

Objection: Mr. Higgins:

If your Honor please, he is bringing out a lot of new

stuff on redirect that was not spoken of in either the direct or cross-examination.

1036 Q. All right; go ahead.

A. I went up there and just thought I would stop in. I was figuring on going back to work—

Q. Just a minute. I didn't get that. Say that again and speak clearly. The jury want to hear you.

A. I said, I had a family and I had been laid off quite a while, and I intended to see him and tell him I was going back to work, as quick as I could, back to the paper mill—the paper mill never was in trouble, so I thought I would tell him I was looking to go back to work to the mill, I was going back as quick as I could get.

Q. Why did you have to tell him you wanted to go back to work?

A. I just wanted to tell him, you know; I don't know why.

Q. Were you a member of the union?

A. Yes, sir; I was.

Q. State whether or not you had been cautioned about working?

A. How is that?

Q. State whether or not any difficulty had been made to your working at any time?

A. No, sir; nobody had never said anything to me about working at the paper mill.

Q. Well, had you been cautioned about working?

A. No, sir, not at all.

Q. Well, state why you wanted to tell Mr. Williams you wanted to go back to work?

1037 Mr. Higgins:

He answered that already.

A. He was the leader, you know, of the Union. That is why I intended to tell him, just to get his consent, see how he felt about it. That is what I intended to do.

LOUIS LEVERT, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. What is your name?

A. Louis Levert.

Q. Mr. Levert, how old are you?

A. Fifty-two.

Q. Born in this state?

A. Yes, sir.

Q. Been a citizen of this state all your life?

A. Yes.

Q. Reside in Bogalusa?

A. Since 1907.

Q. What business are you in?

A. Steam laundry business.

Q. You own the business?

A. Yes, sir.

Q. How long have you owned and operated that business?

A. Since 1907.

Q. Connected in any way with the Great Southern Lumber Co.?

A. No, sir.

Q. Ever worked for them?

1038 A. No, sir.

Q. Were you one of the special police in November, 1919?

A. Yes, sir.

Q. Did you answer the summons for the special police on November 22nd, 1919?

A. Yes, sir.

Q. Where did you go?

A. City hall.

Q. Whom did you find when you got to the City Hall?

A. Well, the chief of police was there—Mr. Lindsley, the chief of police, Wiley C. Magee and several others—there was a good many of them.

Q. Were you told what the purpose was in summoning the police?

A. Yes, sir; I was told Sol Dacus had been brought up to Williams' garage under guard, and there was a warrant issued for his arrest, and also two white men, O'Rourke and Bouchillon, and to go to assist the police to arrest them.

Q. Did you go to Lem Williams' place?

A. Yes, sir.

Q. Is that the reason why you went there?

A. Yes, sir.

Q. Did you go there to shoot anybody?

A. No, sir.

Q. Had you entered into any agreement or conspiracy to shoot anybody?

A. No, sir.

Q. You went there solely to assist the officers?

A. To assist the officers to make the arrests.

Q. As special police?

A. As special police.

1039 Q. Whose car did you go in?

A. I went in a little Ford.

Q. When you got there, tell us what happened?

A. When I got there from the City Hall, Mr. Magee and Mr. LeBlanc and several others was ahead of me.

I got out on the road and parked my car and came in back of them about ten or fifteen feet.

Q. You were ten or fifteen feet behind them?

A. Ten or fifteen feet back of them, and got up to the gasoline launch that was in front of the office next to the fence, I walked up there and stopped there, and when the officers got within, I suppose, around fifteen feet from the garage, Mr. Magee, he says—he summoned him and he says, "Put that gun down. I have a warrant for Sol Dacus."

Q. Could you see the man to whom he was talking?

A. No, I couldn't see the man he was talking to, because he was too close to the gasoline launch, being I wasn't with him, when he got inside, I stood back from where they were—they were across the street when I got in the yard.

Q. Did you hear any conversation between any of the special officers and Lem Williams?

A. No more than I heard Mr. Magee tell some one—I couldn't see who it was—he says, "Put that gun down. I have a warrant for Sol Dacus. Put that
1040 gun down." He repeated that three times, and then in a moment a shot came from the office and then general shooting all over.

Q. You are sure the shot came from the office?

A. Sure; you could tell by the sound. I was about fifteen feet from the office, ten to fifteen feet from the office, and you could tell it; right then and there the whole shooting started.

Q. Did you have a gun?

A. Yes, sir.

Q. What kind of gun?

A. Shot gun.

Q. Had you answered any previous summons for the police?

A. No, sir, I hadn't answered any.

Q. That was the first one?

A. The first I went, yes, sir.

Q. Had you heard the signal on any previous occasion?

A. No, sir; I was away a couple of times and I didn't answer any. That is the only one I answered, but I knew that—

Q. Never mind that. Did you see any women members of the Williams family on the place at that time?

A. When I got in the yard, I saw Mrs. Williams, there was a couple of ladies in there, they came out of the gate going towards the hotel, as I got in the yard.

Q. Your laundry is in that neighborhood?

A. My laundry is just below.

1041 Q. How far?

A. About—well, a distance of two lots, I think, and the street—about 150 feet.

Q. Were there any women standing near the boat at that time?

A. No, sir; there was no woman at all as I got there, there was no women at all in the yard when the shooting happened.

Q. They had gone out before that?

A. They had gone out as the officers came in. I came right back of them, and the ladies were just getting out of the yard then.

Cross Examination.

By Mr. Higgins:

Q. Did you see a man named Poole while you were there?

A. Well, I saw him in the yard.

Q. How close were you to him?

A. Well, I haven't got any idea. I don't know exactly. Ten, fifteen, twenty feet—something like that.

Q. Well, you say ten, fifteen, twenty feet; which is it?

A. Well, something like that. I was standing near the gasoline launch, and Mr. Poole, I believe, came in ahead of me.

Q. How far were you standing from where Mrs. Williams passed you?

A. Well, Mrs. Williams passed me as I came in the yard.

1042 Q. Did you hear her say anything?

A. No, sir.

Q. Was she running or walking?

A. Well, I don't know if she was running—she passed—she went towards the hotel right next door.

Q. She came on out of the yard—

A. Out of the yard and towards the hotel.

Q. She wasn't running?

A. I never paid any attention. I don't remember whether she was running or walking.

Q. Who was with her?

A. Well, I don't know, I don't know for sure; there was a couple of ladies there, I believe.

Q. Was Jim Williams' wife with her?

A. I don't remember whether she was with her. As I say, there was a couple of ladies, I never noticed Mrs. Jim, but I know her well.

Q. Do you know Ida Williams, Mrs. Melancon?

A. I know all three of the Williams ladies.

Q. Do you remember whether Ida Melancon was with those ladies?

A. Well, as I say, I can't say for sure. I know there was two or three ladies there. She was the closest one to me when she went by.

Q. The only one you remember seeing is Mrs. Williams, Mrs. Lem Williams?

A. Well, I remember her, because she was closest to me.

Q. Did she have her little boy with her?

1043 A. I don't remember.

Q. You don't remember that?

A. I didn't pay attention.

Q. You didn't pay attention? You say you don't remember if she said anything?

A. Well, I don't know. No, I don't remember if she said anything; she didn't say anything to me.

Q. Did you hear her say anything to anybody else?

A. No, I did not.

Q. Have you any business connection at all with the Great Southern Lumber Company?

A. No, sir.

Q. Good friend of Mr. Sullivan?

A. I know him well, yes, sir.

Q. Good friend of Mr. Jules Cassidy?

A. Yes, sir—Mr. Jules Cassidy?

Q. Jack Cassidy?

A. I know Jack Cassidy, yes, sir.

Q. Did you have a warrant for the arrest of Lem Williams that day?

A. I didn't have it, but it was issued—you mean for Lem Williams?

Q. Yes.

A. No.

Q. The only warrant you knew anything about was the warrant for Sol Dacus?

A. And O'Rourke and Mr.—Mr.—oh, what's

1044 that fellow's name—Bouchillon.

Q. Do you know what they were charged with?

A. No, sir, I do not. I didn't read the warrants. They told me they had a warrant for Sol Dacus and they had a warrant for these other people.

Q. You say you had a gun?

A. Yes, sir.

Q. Shot gun?

A. Yes, sir.

Q. What was it loaded with?

A. Bird shot. I had it in my hand for the last few days, just went out hunting the day before.

Q. You had it in your office?

A. I had it there for three or four days before; I had gone out hunting, and I had bird shot in it, No. 8 shot.

Q. Did you get any gun from the City Hall?

A. Did I get any gun from the City Hall?

Q. Yes.

A. Why no; I had my own.

Q. Did you go to the City Hall?

A. I went to the City Hall, yes.

Q. Did you see any other guns there?

A. Well, I saw some of the officers; they had reported as I did.

Q. You didn't see any guns except the guns the men had that came out there?

A. No, sir; I didn't see any, no.

Q. Did you see any men standing around the outside at the time you went in?

1045 A. Any men standing around the door?

Q. Yes.

A. I don't remember that I did.

Q. Did you see anybody near the office door of Lem Williams at the time Magee was talking to him?

A. Well, I wasn't paying much attention to the office door, I couldn't very well see the office door from where

I was. I noticed the garage and I didn't see anybody there at all.

Q. What were you paying attention to?

A. Well, I was just noticing the officers, walking in, I was far behind them, and I just walked up to that gasoline launch and stayed there.

Q. You were back of Magee and Jules LeBlanc; is that right?

A. Yes, but I wasn't back of them, I was off to the side, to the left.

Q. They went in there first?

A. Well, they went on in, Magee, LeBlanc and several others, and I went back of them.

Q. Did you see LeBlanc have any conversation with anybody?

A. See Le Blanc have any conversation with anybody?

Q. Yes.

A. No, I didn't pay any attention; I don't remember if he did.

(Counsel exhibits map to witness.)

Q. This is Columbia Road two story building next to Williams is on the right hand side facing the road, this is his office, this is the garage, this is the residence this is the yard, this is the property next door.

1046 Now whereabouts was that boat that you speak of?

A. Somewhere right around here.

Mr. Dufour:

Turn it the other way so the jury can see.

A. (Witness continuing): Somewhere right by here, and the office seems to be closer up to the boat

than what this is. The boat was somewheres around here, near the back of the house, just about here.

Q. Was the bow of the boat facing the street or how was the bow of the boat, which direction?

A. Well, I don't know. I think the back of the boat was facing the office.

Q. The bow of the boat was facing towards the office?

A. The bow; I think that is the way it was (witness indicating), but I don't remember which.

Q. Did you see anybody in the window of the office that faced Columbia Road?

A. No; I never noticed.

Q. Did you notice that window?

A. Yes; I noticed the window.

Q. Was it open or closed?

A. Well, I think the sash was up, but I never paid much attention to the window; I noticed there was a window.

Q. You don't know whether the window was open or closed.

A. Well, I am not sure, but there was a sash
1047 in it and it was up all right, as far as that part of it was concerned, but so far as looking to see that the whole business was open, I don't know; the bottom sash was up.

Q. The bottom sash was up?

A. Yes, sir.

Q. And therefore you could see into the office through—

A. You could see a certain part of it, but it was so dark you couldn't see anything much in there.

Q. You could see in as far as possible, due to the fact that the bottom sash of that window was up?

A. That is the only thing I saw; the bottom sash was up.

Q. That is a glass window, isn't it?

A. Common ordinary sash.

Q. Now where did Wiley Magee stop?

A. Stopped somewhere right near the back there, something like here.

Q. Who was with him at that time?

A. Well, there was Mr. LeBlanc, Mr. Willis and several others— I don't remember half of them that was there.

Q. From your position by the boat, could you see the garage door?

A. No. You see from the position of the boat, you couldn't see past this corner at all. This is—you couldn't here—along here you could see further out this way.

Q. Could you see Tom Gaines that day?

A. No; I didn't see him.

1048 Q. Didn't see him at all?

A. Didn't see him.

Q. And you came into the yard fifteen or twenty feet back of Magee and LeBlanc?

A. Yes, sir.

Q. Is that all you heard Wiley Magee say?

A. Well, that is all I heard him say, "Put that gun down."

Q. Did he say "Put that gun down?"

A. He says "Put that gun down. I have a warrant for Sol Dacus. Put that gun down." He repeated it three times, and immediately then the shooting started.

Q. Those were the exact words he used?

A. Well, yes, sir; those are the exact words he used, "Put that gun down."

Q. Where did you get that gun; from your office?

A. I got that gun since about fifteen years.

Q. No, from your office, or did you get it—

A. I had my gun in my office, sure.

Q. Is that next to the laundry?

A. It is right in the laundry, I had it in the building in the laundry.

Q. From which side of the office was the first shot fired?

A. Well, I don't know from which side it was fired, but it had to be to the south side, because there was nobody on the other side.

Q. It had to be on the side where the men were?

A. Sure.

1049 Q. It had to be where the special officers were; is that right?

A. Sure. There was nobody on the opposite side of the building, or it could have been right in front of the office as far as that goes. I couldn't see, I couldn't see the man that shot at all. As I say, I noticed the officers when they went out, and of course when the shot was fired it drew my attention to where it came from, and then of course I could see nothing, there was so much of it going on.

Q. Now Mr. Levert, you can't swear whether it came out of the office door, or whether it came out of the window facing Columbia Road can you?

A. Well, I don't know, but I will swear it came out of the office.

Q. And the reason you swear it came out of the office is because of your judgment of hearing?

A. The way it sounded, the way the shot sounded anybody could tell it came from an enclosed room; it is altogether different from a shot in the open.

Q. Was it a pistol shot or a rifle shot or what?

A. It sounded like a pistol or a rifle shot, not like a shot gun.

Q. Not a shot gun?

A. Didn't sound like a shot gun, sounded

1050 like a pistol or rifle.

Q. The door was open to the office, was it not?

A. I couldn't tell you. From where I stood there was no chance for me to know.

Q. What kind of building was that office building?

A. Small building built of upright planks, I believe, and stripped.

Q. What did you do when the shooting started?

A. Stayed right there beside that door.

Q. Did you have a gun?

A. Yes, sir; I had my own gun.

Q. Did you shoot it?

A. No, sir.

Objection: Mr. Dufour:

We object, and ask that the witness be advised of his constitutional rights.

The Court:

I believe the witness has answered. You have a right, in case the answer to a question would tend to incriminate you, to decline to answer if you don't want to answer, and if you want to answer, you can answer.

By Mr. Dufour:

Q. Do you care to answer that question?

A. I can answer it, yes, sir.

Q. Read the question.

(Question read.)

A. No, sir.

1051 By Mr. Higgins:

Q. You say you went on a peaceful mission?

A. Went to help to arrest these people.

Q. When you left there, how many dead men were left?

Objection: Mr. Dufour:
If your Honor please, that is an argument.

The Court:
Go ahead and answer.

A. I didn't go in the office.
Q. Were there any special officers wounded?
A. I believe there was one, Mr. LeBlanc, was wounded.
Q. Where?
A. In the arm.
Q. Now Mr. Levert, you are one of the defendants in this case?
A. Yes, sir.
Q. One of the parties being sued?
A. Yes, sir.

W. H. SULLIVAN, sworn and examined as one of the witnesses on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:
Q. What is your name?
A. W. H. Sullivan.
Q. How much do you weigh?
A. 201 pounds.
Q. How tall are you?
1052 A. Six feet.
Q. How old are you?
A. Sixty-one.

Q. Where do you reside?

A. City of Bogalusa.

Q. How long have you resided there?

A. Twenty years the 23rd of March last.

Q. What official position do you occupy with the Great Southern Lumber Company?

A. General manager.

Q. Have you any other title?

A. Vice-president.

Q. How many vice-presidents are there?

A. Three.

Q. Who are they?

A. C. W. Goodyear and Charles I. James.

Q. Are you the ranking officer at the City of Bogalusa?

A. Yes, sir.

Q. Do you occupy any official position in the City of Bogalusa?

A. I have been mayor of the city since the city started July 4th, 1904.

Q. Are you mayor today?

A. Yes.

Q. Of course you were mayor in 1919?

A. Yes, I was.

Q. Were you in Bogalusa during the months of October and November 1919?

A. I wasn't in Bogalusa during the month of October, but I was after the 3rd of November.

Q. When did you leave Bogalusa?

A. I left on the 30th of September.

Q. Did you go on a vacation?

A. No. I went north to see about a cylinder
1053 head for a damaged engine in Milwaukee, and then I took a vacation.

Q. Had anything happened to the damaged engine?

A. The cylinder head blew out.

Q. What was the effect of the blowing out of that cylinder head?

A. It cracked the cylinder, busted it up, so we had to get a new one, a new cylinder.

Q. Did the mill continue to operate?

A. Couldn't operate with that engine gone.

Q. After the accident to the cylinder, were you engaged in repairing the cylinder in the mill?

A. Well, we had it made in Milwaukee, but we were making general repairs to the mill.

Q. And that is the time you went away and left the city for a while?

A. Yes, sir.

Q. And when did you return?

A. On the 3rd of November.

Q. Did you know Lem Williams?

A. Yes, sir.

Q. Was he connected with the union organization in the city of Bogalusa?

A. Yes, sir.

Q. Did he ever come into your office to discuss union affairs?

A. A number of times.

1054 Q. What was the general trend of that conversation and your reply?

A. Well, the first time he came there, he came with a man by the name of Donnelly, who found out I was a carpenter when I lived in Canada, where I was born, and he wanted to discuss with me conditions that existed among the carpenters, what they did thirty-five years ago. I think that is about all we discussed the first time he came to me.

Q. And after that?

A. Then he came back and talked with me about the organization of the employees of the plant.

Q. Did he state they wanted to organize the employees of the plant?

A. Yes.

Q. What was your position?

A. I told them, just as I told other people prior to that time, so far as the company was concerned, we had no objection to the men joining an organization, but we would not deal with men who were not employees of the company, neither would we deal with the union, but we had no objection at any time to deal with any of our own men, either individually or by committee of our own employees.

Q. What is the policy which you announced generally known as in industrial affairs?

1055 A. Open shop.

Q. You insisted that you would have an open shop, and would not have a closed shop and deal with the union as such?

A. Yes, sir.

Q. Did they try to persuade you that that position was not right?

A. Yes, sir; they tried to persuade me it might be better to have union labor. I told them we would not deal with unions; we had a large number of men employed by the company who had been with us for years whom we knew would not join the union, men who were stockholders in the Great Southern Lumber Company by reason of their employment—every man after he has been in the employ of the company for five years, gets to be a stockholder without the payment of any money for the stock, and in Bogalusa alone we had about 165 local stockholders.

Q. Composed of your employees and workmen?

A. Yes, working men—and I told them I presumed there were quite a number of men of that kind would not join unions, and if we attempted to have a union shop, as they called it, why it would probably create discord among our local stockholders.

Q. Did they suggest they were going to organize the colored labor?

1056 A. They said they had it in mind the first time, and we discussed it and I told them, as far as I knew conditions in the South, it would be a great mistake. The next time they came to see me, they said they had gone a little further and felt they could not make very much progress among Southern saw mills, unless they organized negro labor. I told them I feared if anything of that kind was attempted, it would probably create trouble of some kind.

Q. You had reference to race trouble?

A. Yes, sir.

Q. How many negro laborers did you employ at that time?

A. Well, at that time, we were employing, I think, about 2500 men, and about, as I recall it, about sixty per cent of them were darkies.

Q. Do you know those men personally, those negro laborers?

A. No, sir; I don't come in contact with them.

Q. Then you don't know them, as a matter of fact?

A. No, sir.

Q. You don't know the personel of your negro force?

A. No, sir.

Q. You don't come in contact with them?

A. No, sir.

Q. Did you ever attend any union meetings?

A. Yes, sir. I was invited by Mr. Williams and Mr. Donnelly to attend a union meeting on a Sun-
1057 day some time about the middle of July, 1919.

Q. Was that the only meeting you attended?

A. Yes, sir.

Q. Did you go to the meeting?

A. Yes, sir.

Q. Did you talk to the men?

A. Yes. We talked about conditions generally in Bogalusa, and about a week or two weeks—I can't recall exactly—prior to that time, there were four men who had been discharged from the plant, and it had been intimated to me that they had been discharged on account of being members of the union.

Q. Did they make any complaint at that meeting to that effect?

A. They made a complaint at that meeting to that effect, and I told them if they would just have a little patience about it, give me an opportunity to investigate, I promised them I would do whatever was the right thing to do about it.

Q. Did they make any other complaints at that meeting?

A. No, sir.

Q. That was the only complaint they ever made at any meeting that you attended?

A. Yes, sir.

Q. Did you investigate just what was the cause of these men being discharged?

A. Yes.

1058 Q. What cause did you find?

A. Well, you know, in a plant like ours, operating day and night, with about half of our people working in the day time and half of them working at night, we felt it was important to work a

few men on Sundays to make repairs, and these men that were discharged were discharged by our foreman, who asked them to do some important repairs on Sunday, and they declined to do it, and he dismissed them. After I made an investigation about it, we had a meeting, with them, and on the recommendation of the men themselves, they went back to work, and we put them back to work and paid them for the time they had lost.

Q. And that was the only complaint that was ever made to you at this union meeting that you attended?

A. Yes, sir.

Q. When did you return to Bogalusa after the trip to Milwaukee?

A. November 3rd.

Q. Did you know that there had been a number of special police sworn in to assist the constituted authorities?

A. Yes, sir, I did, just as soon as I got home.

Q. When did you find it out?

A. I suppose a day or two after I came

1059 home.

Q. Did you know by whom that had been done?

A. It had been done by the Commissioner of Finance, one of the officers of the city, as acting mayor.

Q. Did you have any part in causing that body of special policemen to be sworn in?

A. No; it was all done while I was away.

Q. Did you ever solicit anybody to become a member of the special police force?

A. No, sir.

Q. Did you ever take any part in the direction of the activities of that force?

A. No, sir.

Q. Did you ever—

A. You see, under our form of city government by Commissioners, there is a Commissioner of Public Safety, and under our agreement with the city, each man handles his own department.

Q. The Commissioner of Public Safety is in command of the police?

A. Yes, sir.

Q. Did you know, on or about November 22nd, 1919, that any warrant had been issued for the arrest of Sol Dacus?

A. No, sir.

Q. Did you know that any warrant had been issued for the arrest of Bouchillon and O'Rourke?

A. No, sir.

1060 Q. Did you take any part in the execution of that warrant?

A. I didn't know there were any.

Q. Did you take part in the summoning of the special officers on November 22nd, 1919, to execute those warrants?

A. No, sir.

Q. Did you ever enter into any conspiracy with any one or more persons to kill or shoot Lem Williams or any body else?

A. Well, I should say not.

Q. Did you enter into a conspiracy with any one or more persons to do any violence to anybody in Bogalusa at that time?

A. I should say not.

Q. Did you instruct any employee or offical of the Great Southern Lumber Company to enter into any such agreement or conspiracy?

A. No, sir.

Q. Did you authorize any official or employee of the Great Southern Lumber Company to take part in any such agreement or conspiracy?

A. No, sir.

Q. Did you enter into any agreement or conspiracy to destroy organized labor?

A. No, sir.

1061 Q. Do you believe in destroying organizing labor?

A. I certainly do not.

Q. Are you opposed to labor organizing?

A. No, sir. The gentlemen who sought to organize it in Bogalusa know how I talked to them about it. I simply stated we would not deal with outside people not in our employ, neither would we deal with unions.

Q. What is generally understood by "wanting to deal with the union?"

A. To permit them to say who shall work and who shall not work.

Q. And you have to make a contract with the Union?

A. That is my understanding.

Q. And they furnish the men?

A. That is my understanding.

Q. And they attend to grievances?

A. That is what I am told.

Q. Their officials settle disputes?

A. Yes, sir.

Q. Was Wiley Magee in the employ of the Great Southern Lumber Company at that time?

A. What time?

Q. 1919?

A. No, sir.

Q. Do you know how many years it had been since he was in the employ of the company?

A. Years to now?

Q. Yes.

A. He worked for us from 1906 or 1907 to 1909 or 1910.

Q. Did the Great Southern Lumber Company discriminate in any way against its employees who
1062 happened to belong to the union?

A. No, sir.

Q. Did you ever announce any policy in that regard?

A. Right after the meeting the committee called on me, and some time in June 1919—there were fifteen or sixteen or seventeen in the party and none of them were employees of the company—they asked at that time if we wouldn't recognize the Union and have a closed shop, and we told them we couldn't do that, and immediately after that meeting we put up a notice on the plant, so that there could be no more question about our attitude, and in that we stated, in engaging employees of the company, we would neither discriminate against men on account of their connection with unions, or their color, or their faith.

Q. Did you know anything about the organization of the Loyalty League in Bogalusa?

A. No, sir.

Q. When did you first learn that some trouble had taken place at Lem Williams' place on November 22nd, 1919?

A. I was playing golf with George Townsend, and I heard—

Q. Out on the golf links?

A. Yes, sir.

Q. How far is that from town?

A. From where?

Q. How far is that from the centre of the city?

A. Well, you see, Bogalusa is quite a large place, and that is one section of the city.

1063 Q. How far is that from Williams' place

on Columbia Road—do you know where Williams' place is?

A. Yes, sir.

Q. How far is that?

A. I taink it is about a mile and a half.

Q. You were out on the golf links?

A. Yes, sir.

Q. With Mr. George Townsend?

A. Yes, sir.

Q. Who was Mr. Townsend?

A. Townsend; he is the sales manager of the company.

Q. And he was with you when he was playing golf with him when you first heard about this shooting?

A. Yes.

Q. Where did you go?

A. I went to the City Hall.

Cross Examination.

By Mr. Higgins:

Q. You say you were playing golf at the time the shooting took place?

A. Yes, sir.

Q. Was Major Guerre with you?

A. No, sir.

Q. You say you didn't know there was a warrant out for the arrest of Sol Dacus?

A. No, sir.

Q. You didn't know there was a warrant out
1064 for the arrest of a man named Bouchillon and a man named O'Rourke?

A. No. You see the mayor don't have anything to do with police matters.

Q. You had a chief of police, had you not?

Q. And there was a mayor of the town, and I believe you are, ex officio, a member of each and every one of the boards, are you not?

A. Surely.

Q. And therefore you are in charge of the different departments are you not?

A. No, not in charge.

Q. Well, as mayor, you would be in charge of the executive department, would you not?

A. Well, the charter explains that. The mayor has general supervision, if that is what you mean.

Q. That is what I mean. Did Chief Magee report to you that he had these warrants for these men?

A. No, sir.

Q. Did Chief Magee ever report to you that it was necessary to increase the force over there?

A. No, sir.

Q. Never reported that to you?

A. No, sir.

Q. Did he report to you—

A. It was increased while I was away.

Q. Well, after you came back, did he report anything to you?

1065 A. The Commissioner of Safety reported to me.

Q. Who was that?

A. Mr. Lindsley.

Q. What reason did he assign for increasing the force?

A. Well, he told me that while I had been absent from the city, that there had been considerable trouble, that there had been people parading the streets carrying guns, and that they had gone over to the jail to release or assist in releasing some people from the jail, that they had tried to shut off the lights and water, and they they had to have some additional police protection.

Q. When did the mill start up, what date?

A. It started up some time in the early—in—let me see—started up very slowly, just one rig at a time—started up the last of November.

Q. Now under your system of operating the plant, does the foreman, or manager, or assistant manager have to report to you every time he wants to discharge a man?

A. No, sir.

Q. Doesn't have to report to you?

A. No, sir.

Q. How many employees have you in that plant of the Great Southern Lumber Company?

A. Now: about 3500.

Q. In 1919, I mean, before you shut down?

A. About 2500.

Q. Did you know all of those men in-
1066 dividually?

A. No, sir.

Q. You say you had no men organizing, but your company refused to recognize the Union; is that right?

A. Yes, sir.

Q. Do you know if the colored labor of the Great Southern Lumber Company was organized during the year 1919?

A. I don't know.

Q. What do you mean, Mr. Sullivan, when you say that to organize colored labor would create race trouble?

A. Well, you see, the way they attempted to do so in this case—I didn't see it personally, but this is what was reported to me—that they went down through the negro quarters carrying guns and summoning the negroes to sign cards, and many men in the city, as well as myself, were fearful of that exciting the negroes by permitting men to go through their quarters, carrying guns and intimidating them, the least little thing would

bring matters to the point where the darkies would attack some white person and cause a race riot.

Q. What was the necessity of organizing the negro labor there?

A. That is a mystery to me.

Q. Did you, or any of your assistants, attempt to replace white men with colored labor?

A. I didn't get that.

Q. I say, did you or any of your assistants,
1067 replace white men, discharge white men from the plant, and replace it with colored help?

A. Not to my knowledge.

Q. You never had any knowledge of that?

A. No, sir.

Objection: Mr. Dufour:

If your Honor please, he asks him if he had any knowledge of it. The witness has just said not to his knowledge. I submit that is an improper question.

Mr. Higgins:

This is an intelligent witness, and can take care of himself.

Q. Mr. Sullivan, while you were playing golf, did you hear the whistle blown that day?

A. Yes, sir.

Q. Did you know what it blew for?

A. No, sir; I thought it was the fire whistle, the regular fire department whistle.

Q. You were not told by the Commissioner of Public Safety what that signal would be?

A. No, sir.

Q. Had you heard it on any previous occasion?

A. No, sir; only, as I say, as a fire whistle.

Q. Just as a fire whistle; that is all you knew it as?

A. Yes, sir.

Q. Did you ever hear a similar signal blown by that same whistle on previous occasions?

1068 A. Only for fire.

Q. Was that the same signal that was given for fire that was given that day?

A. Part of it, the blowing of the siren.

Q. Did you notice some difference between this signal?

A. No, sir.

Q. Now was it the siren whistle or the fire whistle?

A. Beg pardon?

Q. I say, was it the fire whistle or the siren whistle, if there was any difference?

A. There is no difference; the fire whistle is the siren, except that in case of fire it is followed by other blasts.

Q. By the same whistle?

A. No—yes.

Q. How many whistles are there?

A. Two.

Q. One whistle is the siren whistle; is that right?

A. One is the siren.

Q. And what is the other one called?

A. The other one is the whistle.

Q. They don't call it the fire whistle?

A. No; they call it the whistle.

Q. Mr. Sullivan, do you know what the reason was for all of this discord over there that you testified to?

A. None, except the men were trying to organize labor in that community, and as Mr. Donnelly told me, that it was a profitable thing for him, that

1069 he was the organizer.

Q. The first time you spoke to him, all you

talked about was labor conditions thirty-five years ago; is that right?

A. He says he heard I was a carpenter and worked at that trade, and he wanted to know something about what wages we got thirty-five years ago and where I worked in Canada, where I was born, and that is all we talked about the first time he came to see me.

Q. And Lem Williams came with him that time?

A. Yes.

Q. Did Lem Williams speak of anything else?

A. No, sir.

Q. I believe you said you didn't hire all of the employees of the mill; is that right?

A. I don't hire any.

Q. And you don't direct all of them except through your subordinates?

A. Yes, sir.

Q. Now, under the open shop arrangement that you speak of, a man could be discharged without any cause or provocation; isn't that right?

A. Yes, sir.

Q. It is left entirely within the discretion of the employer to discharge him?

A. The foreman.

Q. And working conditions are left entirely
1070 in the discretion of the employer too; isn't that right?

A. What?

Q. I say, on the theory of the open shop, the employer can—

A. Run his own business.

Q. Yes, sir, run it entirely.

A. Run his own business, yes.

Q. And the employee can either take the position or leave it as he sees fit?

A. Sure.

Q. No matter what the working conditions may be?

A. They are fine in Bogalusa.

Q. You are not an employee, though, are you?

A. I certainly worked more hours than anybody else in the employ of the company.

Q. But you are the general manager?

A. Well, that is some times a difficult position.

Q. As a matter of fact, the Great Southern Lumber Company refused to recognize the Union; is that right?

A. Yes, sir.

Re-Direct Examination.

By Mr. Dufour:

Q. When you say you refused to recognize the Union, you mean refused to make a contract with the Union to furnish labor?

A. Yes, sir.

1071 Q. You wouldn't make such a contract?

A. As I said, we put up a notice, we had no objection to men belonging to any Union or any church or any race.

Q. But you would not make a contract with the Union for them to furnish your labor under their conditions?

A. No, sir.

Q. You were a working man yourself once?

A. I worked at the carpenter's trade for years.

Q. For day wages?

A. Yes, sir.

At this point the trial of the case was continued till the following morning at 11.00 o'clock.

Friday May 1, 1925.

All parties interested being present, the trial of the case was this day resumed.

H. E. WILLIS, recalled:

By Mr. Dufour:

Q. Mr. Willis, you testified you were an engineer?

A. Yes, sir.

Q. Practicing your profession?

A. Yes, sir.

Q. Have you made a map with the lines and measurements of the Williams property in Bogalusa and the relation of the buildings to each other and the street?

A. I have.

1072 Q. Will you look at this map and tell me whether that is the map that you made?

(Document in question exhibited to witness.)

A. Yes, sir.

Q. Are the measurements on that map correct?

A. They are.

Q. Does that map correctly show the situation as to lines and measurements of the property?

A. It does.

Q. When was that map made?

A. The measurements were taken last Saturday morning and the map was finished since this Saturday and part of Sunday.

Q. Is the location of the various buildings on the Williams property and the size of the buildings the same as they were at the time of the shooting?

A. Yes, sir; they are.

Offer: Mr. Dufour:

In connection with the testimony of the witness, we offer, introduce and file in evidence the map, and mark it Defendant-X.

Q. Have you marked on that map the location of the telegraph poles on the other side of the street?

A. No, sir; I have the telephone poles.

Q. Oh, the telephone poles?

A. Yes, sir.

Q. That is the line of the telephone poles
1073 there?

A. Here is one and here is the other (witness indicating.)

Cross Examination.

By Mr. Higgins:

Q. Mr. Willis, I believe you said you were the city engineer?

A. Yes, sir.

Q. Did you personally go there and make those measurements?

A. I did.

Q. Under whose instructions?

A. Under counsel's instructions.

Q. Who gave you permission to go on this property?

A. The gentlemen there on the property.

Q. You know Mrs. Williams owns that property, do you not?

A. No, sir, I don't.

Q. What is the gentleman's name that gave you permission to go there and make this map?

Objection: Mr. Dufour:

I don't think that is relevant, if your Honor please.

The question here is, is that a correct map. If there is any question of trespass, let them go to the City Court of Bogalusa.

Mr. Higgins:

I think it is relevant to show he had no authority to go on the place to make this map.

The Court:

If the map is correct, I don't see that that is relevant in this case.

1074 Q. (Counsel holding map up in front of the jury and the witness.) I understand this is Columbia Road; is that right?

Q. This represents Williams' property?

A. It does.

Q. What does this represent?

A. That is the residence.

Q. Williams' residence?

A. Yes, sir.

Q. What does this represent?

A. That is the garage.

Q. The shop or garage?

A. The shop or garage.

Q. What does this represent?

A. That is the office building.

Q. In other words, the building marked "Dwelling" is Lem Williams' residence, the building marked "Shop" is his garage or shop, and the building marked "Labor Office" is his office?

A. Yes, sir, correct.

Q. You don't know what the width of the property is?

A. Not the individual property, no, sir, I do not.

Q. You didn't measure the width of the property frontage?

A. No, sir.

Q. You didn't indicate what the distance was from this office door to the fence?

A. I did not, no, sir.

Q. Did you measure the rear width of the property?

A. Just of the buildings, that was all.

Q. Is it indicated on there?

A. No, sir, it is not.

1075 Q. This window was 2′ 4″ wide by 5′ 3″ high; is that right?

A. That is right.

Q. The door was 2′ 9″ wide by 6′ 8″?

A. Correct.

Q. The window adjoining the Columbia Street Hotel or on the side towards the Columbia Street Hotel, in the office, was 2′ 3″ wide by 5′ 2½″ high; is that right?

A. Correct.

Q. And the door in the garage or shop is 15′ 8″?

A. That is correct.

Q. Are there any telephone poles around there?

A. Well, I couldn't say.

Q. You don't know?

A. I don't know.

Q. Any telephone poles along here?

A. Well, I can't say as to that. I presume there is, on this side of the street, here.

Q. But you don't know whether there is any telephone poles that way?

A. No, sir, I do not; I can't say that there is here.

Q. You don't know what the width of this gate was in front of the door?

A. No, sir; I do not.

Mr. Higgins:

If your Honor please, in connection with the map, there are certain lines and so forth drawn on it that I want to object to, as taking away from the jury
1076 the prerogative that is invested in them, in other words, there is a line drawn on that map where a certain witness was supposed to have been, showing that if he was in that position a house would intercept his vision. Now I don't think that the map should contain anything of that kind. In other words, if it is a map of the location, of the locus in quo, it can only contain the buildings, etc., that were situated on there, the dimensions of them, and all of the things that were in the yard physically, but it certainly cannot contain lines or dotted lines or anything of that kind giving the point of view of anybody that may have testified as a witness in this case. Besides that, it is not a complete map, does not contain all of the measurements, does not contain all the telephone posts and so forth.

Mr. Dufour:

Let me examine this witness a little further.

Q. Mr. Willis, can you testify of your own personal knowledge that all of these buildings on the Williams property are in exactly the same position that they were on November 22, 1919?

A. Yes, sir, I can.

Q. Can you swear, of your own personal knowledge, that all of the telephone poles are in exactly the same position that they were on November 22nd,
1077 1919?

A. Yes, sir, I can.

Q. You distinctly recall that all of these telephone poles that you have indicated on this map are in the

same position today as they were on November 22nd, 1919?

A. In order to change a telephone pole or poles, the law has been, it is necessary to get a permit, and I issue those permits.

Q. Do you go to the locus in quo each time you issue a permit, where the pole is and where the new pole is to be placed?

A. We do.

Q. On each occasion you do that?

A. Have to do it, to keep them from placing poles in the ditch or on the curb.

Q. Will you kindly state whether or not you have got a boat in Williams' yard on this map?

A. No, sir, I have not.

Q. This map does not indicate the length of the garage, does it?

A. The measurement of the garage is not shown, no, sir.

Q. Is the width of the garage shown?

A. No, sir, it is not.

Q. Will you kindly tell me what the map shows as to the length and breadth of the office building.

A. Shows 12 by 15.

1078 Q. What is that building constructed of?

A. Wood.

Q. Ceiled or not?

A. Yes—no, I couldn't say, I don't know whether it is or not; I believe it is not, though.

Q. Can you state whether or not the map shows the distance between the garage door and the front gate?

A. It does not.

Q. Will you kindly state whether or not the map shows the distance between the front porch of the Columbia Street Hotel and the office door of Lem Williams' office?

A. No, sir, it does not.

Q. There is no line on there to indicate any measurement of that kind, is there?

A. Yes; the measurement here shows that; it is 94′ to this point here (witness indicating), from here back to the front, and this (witness indicating) is 90′ 10″ from here to the point of the gallery.

Q. Well, according to your map and figures you have on there, the front porch is how far from the front of Williams' place?

A. 83′ 2″.

Q. When did you say this map was made?

A. Saturday evening and Sunday, part of Sunday morning.

Q. Of this week—what date, I mean?

A. Well now, I don't remember what date
1079 Saturday was; it was last Saturday.

Q. You don't remember what the date of last Saturday was?

A. No, I do not.

Objection: Mr. Higgins:

If your Honor please, I am going to make objection to the introduction of the map, on the ground it is not a complete map, and that the map represents this witness' ideas of the locus in quo, of the buildings, telephone poles, fence and so forth as indicated on there over six years ago.

The Court:

I overrule the objection.

Mr. Higgins:

I reserve a bill.

Mr Higgins:

I want to object to this line for any other purpose than as indicating the measurement.

The Court:

I can't confine counsel in their argument as to what the line shows. I will have to overrule that objection, unless you can show from the witness that it does not indicate the situation as to physical objects both at the beginning and the end of that line and the intervening physical objects as they existed at that time.

Mr. Higgins:

Well, I will reserve a bill.

By Mr. Johnson:

Q. State whether or not you made a measurement from the office along the line between the office
1080 and the two story building to the street?

A. Yes, sir, I did.

Q. State whether or not you made a measurement from the front of the two story building to the street corner?

A. I did.

Q. State whether or not you extended that line in the same direction across the street to a point directly between the two telephone poles?

A. Yes, sir.

Q. State whether or not you measured from that point on the line of the telephone pole to each of the telephone poles?

A. Yes, sir.

Q. State whether or not this map represents the actual location from those measurements?

A. It does.

Q. State whether or not you measured from this telephone pole to the back window of the garage?

A. Yes, sir.

Q. State whether or not that dotted line represents that measurement?

A. It does.

Q. Exactly as it is?

A. Exactly.

Q. State whether or not that building marked "Dwelling" and the building marked "Shop" are the same buildings that were there in 1919?

1081 A. Yes, sir.

Q. Did you measure those buildings, in order to make the map?

A. Yes, sir.

Q. Did you measure the distance from the shop to the dwelling house?

A. I did.

Q. State whether or not you measured the distance from this building south of the Williams property to the hotel?

A. Yes, sir.

Q. Are all locations by measurement?

A. Yes, sir, absolutely.

Q. Are all angles and directions by actual measurement?

A. Yes, sir.

MILLARD JUSTICE, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Johnson:

Q. What is your name?

A. Millard Justice.

Q. Where do you live?
A. Live in Ponchatoula.
Q. What are you doing in Ponchatoula?
A. Running a store.

Mr. Higgins:
You will have to speak louder.

Q. Who are you operating a store for?
A. Operating a store for Mr. Carson.
1082 Q. Where did you live in November, 1919?
A. I think I was in Bogalusa.
Q. What were you doing?
A. I was working for Mr. Carson.
Q. What were you engaged in?
A. I was a clerk.
Q. In what sort of establishment?
A. Grocery store and meat market.
Q. How tall are you?
A. I am about six feet.
Q. How much do you weigh?
A. 160 to 165 pounds.
A. Do you recall the day Mr. L. E. Williams was killed in Bogalusa?
A. Yes, sir.
Q. Where were you on that day?
A. I was at the store.
Q. State whether or not you accompanied Mr. Carson to the City Hall that day?
A. Yes, sir.
Q. What did you do after you reached the City Hall?
A. We went out on the road, I think around a mile and a half or two miles.
Q. What road?
A. Mississippi Road, the road that leads to Mississippi.

Q. Who was with you?

A. Nick Jenkins, Bud Sherman and Mr. Carson himself.

Q. What was the purpose of your visit on that road?

A. I understood the nigger Sol Dacus wanted
1083 to run away, and we were trying to catch him.

Q. Do you know that of your own knowledge?

A. Well, I heard it.

Q. How did you learn it?

A. Well, I had heard of the nigger being there going north, trying to catch him—trying to run away.

Q. Why did you go?

A. Well, Mr. Carson asked me to go with him.

Q. In whose conveyance were you?

A. Mr. Carson's.

Q. His car?

A. Yes, sir.

Q. Who was driving the car?

A. I was.

Q. Where were you when the shooting took place?

A. We were out on the road.

Q. During the time of the shooting?

A. Yes, sir; we heard it.

Q. When did you return?

A. Somebody passed along and told us somebody got killed up there and we came on back.

Q. How long after the shooting?

A. It wasn't very long. I went back to the store again.

Q. Do you know how long it was, about?

A. No, sir, I couldn't exactly tell you, but I don't think it was very long.

Q. How far was the place where you were on the road from Williams' place?

A. Must have been between two and three
1084 miles, I don't know exactly.

Q. You stated a moment ago it was only a mile and a half from town?

A. Well, I don't know exactly, just about a mile and a half, something like that.

Q. You were out on the road towards the Mississippi line?

A. Yes, sir, leading up across the river.

Q. Don't you know it is not two miles to the Mississippi line?

A. I really don't know how far it is.

Q. Any way you were on that road?

A. Yes, sir.

Q. And came in after the shooting?

A. Yes, sir.

Q. Now where is Bud Sherman?

A. Bud is dead.

Q. Did you go into Williams property when you got back?

A. No, sir.

Cross Examination.

By Mr. Higgins:

Q. Who attended the store while you were away?

A. The store was closed.

Q. Where did you go, from the time you left the store where did you go first?

A. Went to the City Hall.

Q. Did you all have guns?

A. I don't know; I never had any; I don't know if they had any or not.

Q. You don't remember?

1085 A. No, sir.

Q. Did you see any guns at the City Hall?
A. No, sir.
Q. Did you see anybody around with any guns?
A. No, sir.
Q. You say you were in Bob Carson's car?
A. Yes.
Q. Any men in that car have guns?
A. No, sir, not that I seen; if they had, they had them concealed.
Q. Didn't see any shot guns or rifles in the car, did you?
A. I don't believe I did, no, sir. If I did, I don't remember.
Q. You say the reason why you went along was because Sol Dacus was going to run away?
A. No; I went because Mr. Carson asked me to go with him.
Q. Why did you go?
A. He asked me to.
Q. For what purpose was he going?
A. I don't know what it was.
Q. What did you say about Sol Dacus a moment ago?
A. I heard that nigger was trying to get away and they was trying to catch him.
Q. Was trying to get away?
A. And they was trying to catch him.

ROBERT PITTMAN, sworn and examined as a witness on behalf of the Defendants, testified as follows:

1086 Direct Examination.

By Mr. Dufour:
Q. Mr. Pittman, you were sworn in this case as a witness in behalf of the plaintiff?
A. Yes, sir.

Q. You are the same man?

A. Yes.

Q. Do you know the Garner boy, Ernest Garner?

A. Yes, sir.

Q. Did you know him on November 22nd, 1919?

A. Yes, sir.

Q. Did he ever play around the engine house where you were stationed?

A. Yes.

Q. Seldom or frequently?

A. Regularly, all the time, pretty near every day.

Q. Was he around there when the whistle blew on November 22, 1919?

A. Yes, sir; there was a bunch of kids playing out on the park in front of the station.

Q. You say he was one of them?

A. Yes, sir.

Q. Will you please tell us what he did after that whistle blew about half past twelve o'clock on that day?

A. Well, there was a big bunch of kids around when the whistle blew, and they came all running to the station—they thought we were going out, you know—and when they got to the station and saw that we didn't go out, they stayed around there for a pretty good little bit until just about the time that this trouble started down at Mr. Williams' place, and when the cars
1087 drove up down there and the men started to go in, there was a big bunch of kids—

The Court:

Louder please, talk to the jury please, and a little louder. I hardly think they can hear you.

A. (Witness continuing.) A big bunch of kids was out there playing, still hanging around the station, and

when the cars drove up there, down to Mr. Williams, and got out to go in, why they all ran down the lower end of the park—

Q. Is that park fenced in?

A. Yes.

Q. Is there any barbed wire around it?

A. Well, it was plank fenced and one barbed wire on top—one or two—I don't know which.

Q. So it is enclosed?

A. Yes, sir, and they all ran down to the lower end of the fence, you know.

Q. Did that fence come in on a triangle?

A. Yes, right in front of the steam laundry it comes right in a triangle, I suppose about 250 feet above where the folks was getting out of the cars, and just about the time that they got to the fence, why the guns started shooting and they all turned around and ran back to the station.

Q. Did you ever tease any of those kids about that incident?

A. Yes; we laughed at all of them.

Q. Did you tease the Garner boy?

1088 A. Yes, sir; well, I can't say exactly about teasing him, but I know we teased all the kids, and he was one of the bunch.

Q. And what did he say about it?

A. They all ran so fast coming back, we didn't know what had happened, when they came running back, and they didn't either, but they came running back up there and stayed there, and after a while they found out what it was.

Q. Was there anybody with you?

A. Yes, sir; there was Otis Branch, he was with us. We was up on the hose rack, looking down.

Q. Which one of the Garner boys was it that you saw?

A. Oh, there was three of them; Ernest, the one they call Chris, I think it his given name—I know part of his name is Chris.

Q. He wasn't the fat one?

A. The fat one?

Q. I mean Chris; is he the fat one?

A. Chris was fat, but Ernest, he was the barber—he is a barber now—and the two Simmons boys, the little Branch boy, he was in the bunch out there playing, and they all ran down.

Q. They all ran down?

A. Yes, sir.

1089 Cross Examination.

By Mr. Higgins:

Q. How far is it from the fire station to the Williams property?

A. Well, I guess it is right about a block, and then about 150 feet, a block and a half, I guess.

Q. How much is a block over there?

A. I couldn't tell you.

Q. 300 feet?

A. Something like that.

Q. So it was about 450 feet away?

A. Something like that, I should say; I can't be positive about the exact distance, because it was just a little triangle on the corner of the street, pretty near a block wide at one end and tapers off at the other end.

Q. What did you do when you heard the whistle blow?

A. I didn't do anything.

Q. Did you know it was not a signal for fire?

A. Yes, sir; we had no signal for any fire.

Q. You knew that?

A. Yes, sir.

Q. Somebody told you that?

A. No, sir; it didn't blow. I knew the signal when we had a fire.

Q. Did you know what that signal was for?

A. No, sir, not at that time.

Q. Where did you go after you heard the
1090 signal blow?

A. I didn't go anywhere; I stayed right in the station.

A. Yes, sir.

Q. Is the Williams property more visible from the rear yard of the fire station than from the front?

A. Yes, sir.

Q. Did you go in the back yard?

A. Yes, I did; I went out in the back yard, up on the hose rack—we have a hose rack, a slanting arrangement you know, that we hang the hose on to dry; we went down to the read end of it, came up on the highest part of it, and looked down towards the place.

Q. Anybody else come up with you?

A. Yes, sir; Otis Branch—I don't know whether any of the other boys were there.

Q. You don't remember any of them?

A. There was Branch—he was a fireman, I think.

Q. How many firemen were there in that station, on that day, at that time?

A. There was two or three others, but that was the noon hour and some of them had gone to dinner, but I remember very distinctly Branch being there.

Q. You can't name the other firemen that were there?

A. No; I can't remember, even if there were any besides Branch; I know Branch was there, because he was the one I was talking to.

Q. You remember all these boys that were
1091 there though?

A. Practically all of them, yes.

Q. What made you get up on the highest part of that hose rack at the back of the fire department?

A. To see what was going to happen.

Q. What was the reason you wanted to see what was going to happen?

A. Well, like any man wants to know what is going on around him.

OTIS BRANCH, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination.

By Mr. Dufour:

Q. What is your name?

A. Otis Branch.

Q. Where did you reside in November, 1919?

A. Fire station, Bogalusa.

Q. Were you a member of the fire department?

A. Yes, sir.

Q. Do you know Mr. Pittman?

A. Yes, sir.

Q. Was he a fireman at that city at that time?

A. Yes, sir.

Q. Were you at the fire station on that day at 12.30 when the whistle blew?

A. Yes, sir.

Q. Do you know the small Garner boy, Ernest Garner?

1092

A. Yes, sir.

Q. Do you know the other Garner boys too?

A. Yes, sir.

Q. How did you know them?

A. Well, I have been knowing them ever since they were kids, raised up here.

Q. Did they ever play around the station?

A. Yes.

Q. Were there any boys playing around the station when the whistle blew that day?

A. Yes, sir; they was right at the station and they were out in the park right close there.

Q. The station is on the same lot that the park is on?

A. Yes; it is just across the fence that separates it.

Q. Is the park fenced around?

A. Yes.

Q. What kind of a fence?

A. Just a plank fence.

Q. Any barbed wire?

A. No, sir; there is now, but wasn't then.

Q. Did those boys come to the station when the whistle blew?

A. Yes.

Q. What did they want?

A. They thought it was a fire.

Q. Did you see any cars passing the fire station going in the direction of Williams' property?

A. Yes, sir.

Q. Tell us what happened just about that time and what those boys did?

1093 A. Well, when the whistle began blowing, those boys came up there, thinking it was an alarm, and cars began passing, and so when the cars stopped in front of Mr. Williams' place, why, we went and got up on the hose rack, in the rear, to see what was the matter, and those boys went out in the park, and just as the guns began to shoot, why they ran back up that hill.

Q. How far did they get?

A. They must have got down pretty close, about 200 feet from where this shooting occurred.

Q. And they were still in the enclosure of that park?
A. Yes, sir.
Q. Did you ever joke with those boys about it?
A. Yes, sir.
Q. Tell us what—
A. Well, when they ran back up that hill, why, we asked them what did they run for and we kidded them and joked with them the next day and also that afternoon, because they came back in the station and was hanging around all that afternoon.
Q. Did they look scared when they started to run?
A. I suppose they did.
Q. Come back fast or walk back?
A. They ran back.
Q. The Garner boy was one of those that ran back?
A. Yes, sir.
1094 Q. Which one of the Garner boys, did you say?
A. Ernest.
Q. That was the little fellow?
A. Yes.
Q. When I say the little fellow, I mean this slim one.
A. Yes, sir.

Cross Examination:

By Mr. Higgins:
Q. What is your occupation at the present time?
A. City fireman.
Q. Under whom?
A. Mr. Pittman.
Q. And who is above Mr. Pittman?
A. Well, the Commission Council appoints him, the mayor.
Q. Who is the mayor?
A. Mr. Sullivan.

Q. How old are you now?
A. Twenty-five years old.
Q. You were nineteen at that time?
A. Yes.
Q. What was Mr. Pittman at that time?
A. He was the chief.
Q. He was the chief of the fire department?
A. Chief of the Fire Department.
Q. He was in charge of that station?
A. Yes.
Q. How many firemen did he have?
A. We had three there, at that station.
Q. Can you name them?
A. Yes.
Q. Who were they?
A. Me and Mr. Pittman and Tony Giglio.
1095 Q. What time did you say that whistle blew?
A. I just don't remember. I didn't have any watch. I don't know what time it was, but it was right around 12:30 o'clock.
Q. It was around 12:30?
A. Well, I wasn't looking at my watch. I know I just came back from lunch, and I went home from 11:30 to 12:30.
Q. It was lunch time?

Mr. Dufour:
He said he came back from lunch. He said he went home from 11:30 to 12:30.

Q. Well, it was between 12:00 and 1:00?
A. Yes.
Q. The time you usually eat lunch?
A. Yes.

Q. You say the boys were out playing at that time?
A. Yes, sir.
Q. Can you name the boys?
A. Yes.
Q. Well, who are they?
A. Dick Ezell, Dutch Ezell, O. D. Caffe.
Q. Those the only ones?
A. And Ernest Garner, Chris Garner.
Q. How far is the fire house from Williams' property?
A. About two blocks.
Q. How far would that be in feet?
A. About—let me see—must be about—I don't know how many feet to a block.

Q. How many feet are there to a block in
1096 Bogalusa?

A. I don't know.
Q. Can't you estimate it?
A. Well, I suppose about 250 feet—must be about 300 feet— it is really longer than they are here.
Q. How far would you say the fire station was from the Williams property?
A. Must be about 600 feet.
Q. Did you take the fire engine out that day?
A. No, sir.
Q. Why?
A. Well, we didn't get any signal; just had the alarm whistle, we didn't have any signal at all.
Q. Wasn't a fire signal, was it?
A. That was the fire whistle, but there was no signal, wasn't any signal for fire.
Q. In other words, you didn't get the fire signal?
A. No, sir.
Q. Now, what made you go out and get on this hose rack in the rear of the building?

A. We seen the cars stop at Williams' place and that gave us a better view, we could see better up on top of that hose rack; it is about ten feet high.

Q. And you climbed up on there?

A. We had some steps, we climbed up on the steps and went to the top.

Q. Who was up there with you?

A. Mr. Pittman.

Q. Anybody else?

1097 A. No, sir.

Q. Could you see right in on Williams' property from there?

A. No, sir.

Q. What stopped you from seeing?

A. There was a building in front of that place, and from where we were standing, we were looking at a side view of it; you couldn't see straight in because it is nearly opposite.

Q. In which direction is the fire station; north or south of Williams' place?

A. It is south.

Q. In other words, the fire station is on the left side of Williams' property facing Columbia Road; is that right?

A. Yes, sir.

Q. How long did it take for the shooting to get over, do you know?

A. No, sir.

Q. You saw the automobiles going down to Williams'?

A. Yes, sir.

By Mr. Talley:

Q. You say the fire station is south of the Williams' property; is it south on the same side of Columbia Street or on the other side of the street?

A. It is just a block off Columbia Street, but this street ran in a shape like that (witness ilustrating).

Q. Now tell us where your fire station 1098 is?

A. Here (witness indicating) it runs at an angle, just like that, and the fire station sits just here.

Q. And where is the Williams' property?

A. Right down here, about an hundred feet from the corner of this fence.

J. H. CASSIDY, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination:

By Mr. Dufour:

Q. Mr. Cassidy, you reside in Bogalusa?

A. Yes, sir.

Q. You are assistant general manager of the Great Southern Lumber Company?

A. Yes, sir.

Q. How long have you resided in Bogalusa?

A. I have been there nineteen years in September.

Q. How long have you been assistant general manager of the Great Southern Lumber Company?

A. Since the spring of 1909.

Q. You were the assistant general manager of that company in October and November of 1919?

A. Yes, sir.

Q. Who was the general manager?

A. W. H. Sullivan.

Q. He lived there?

A. Yes, sir.

Q. Was he in Bogalusa during the months
1099 of October and November 1919?

A. He left some time in the month of September and returned in the early part of November.

Q. He was not there during October?

A. No, sir.

Q. Who was in charge of the management of the affairs of the company in the absence of Mr. Sullivan?

A. I was sir.

Q. As assistant general manager?

A. Yes, sir.

Q. What are your duties as assistant general manager?

A. Well, I have charge of all the operations.

Q. Including the plant?

A. Yes, sir.

Q. Do you act as general manager in the absence of the general manager?

A. Yes, sir.

Q. And you were acting as general manager in Mr. Sullivan's absence?

A. Yes, sir.

Q. Did you ever have any interview with Lem Williams in your capacity as acting general manager of the Great Southern Lumber Company during October, 1919?

A. Yes, sir.

Q. Where was that interview?

A. Lem Williams and a man by the name of Donnelly, from New Orleans, came to my office one morning, and they crowded it full, there was not standing room for anybody left, and they wanted me to sign a contract.

1100 Q. What was the nature of the contract?

A. I didn't read the contract, but they said

they wanted me to sign it, sign a contract to recognize the Union. These men were not employees of our company.

Q. What did you tell them?

A. I told them our policy was to deal with our own men only.

Q. And you refused to sign that contract with the Union?

A. Yes, sir.

Q. What was the nature of that contract with reference to the men that you might be allowed to employ?

A. Well, the way they explained it to me, it was a closed shop and we were to employ nothing but union men.

Q. Did you tell them with whom you would be prepared to deal in contracting with your men?

A. I told them we would deal directly with our own men, individually or by committee.

Q. With whom did they want you to deal?

A. Wanted us to deal with them.

Q. As representatives of the union?

A. Yes, sir.

Q. And they were not employees?

A. They were not employees of our company.

Q. Did you have any part in the organization of the Loyalty League that some of the witnesses have testified to?

A. No, sir, none whatever.

Q. Did you ask anybody to join that Loy-
1101 alty League?

A. No, sir.

Q. Did you have any part in the organization of any special police force?

A. None whatever.

Q. Did you know that that force was being organized?

A. Not when it was being organized.

Q. When did you learn about it?

A. When they assembled over about the City Hall or the jail. That was the first I knew of there being a special police force.

Q. Was any arrangement ever made with you as acting general manager of the Great Southern Lumber Company for the use of the company's whistle for police purposes?

A. Yes, sir.

Q. Will you state what that arrangement was?

A. They were made with the Chief of Police and Commissioner Lindsley.

Q. What did they ask of you in that respect?

A. Well, they came to my office, I am not sure when, but it was the next day after the city was without lights and water, either that or the following day, and they wanted to use our fire whistle, the fire whistle in the power house.

Q. For what purpose?

A. Summoning the police.

1102 Q. That is what they told you?

A. Yes, sir.

Q. Did you give them that privilege?

A. I did. I called the superintendent, Major Guerre, who was sitting there, and told him to blow that whistle under the instructions of the chief of police or Commissioner Lindsley, as they directed.

Q. You were in charge of the plant?

A. Yes, sir.

Q. And you gave such instructions?

A. Yes, sir.

Q. The plant was under your control?

A. Yes, sir, it was.

Q. Did you know, on November 22nd, 1919, that any warrant had been issued for the arrest of Sol Dacus or Bouchillon or O'Rourke?

A. No, sir.

Q. Had you been at your office that morning?

A. No, sir, I had been home sick for three days, I had chills and fever.

Q. Then what was the first day you went out after your illness?

A. The day of the trouble.

Q. Did you know that the whistle was to be blown on that day?

A. No, sir; I was on my way between my residence and my office when it blew.

Q. Was that the first time you had gone out since your illness?

A. Yes, sir.

Q. When did you first learn that there had
1103 been any trouble?

A. When the whistle blew. When I got to my office, I tried to find out what the whistle blew for, but before I got the information, there was some parties came into my office and told me there had been trouble on the Columbia Road and some men were killed.

Q. That was the first you knew of it?

A. Yes, sir.

Q. That was Saturday afternoon?

A. Yes, sir.

Q. Do you remember when the city was without lights and water?

A. Yes, sir; I remember that very well. I don't remember the exact date though.

Q. It was in October, 1919, was it?

A. Yes, sir.

Q. Can you tell us what the circumstances were attending the shutting off of the lights and water?

A. Well, we had some trouble for some days, running the men off and stopping them from going into the power house at nights. I walked down to the Fourth Street gate, where they enter the power house—

Q. Where who enter the power house?

A. Where out men enter the power house—and Lem Williams came up with a crowd of thirty or forty men and wouldn't let the men go into the power house.

Q. And they didn't go into the power house?

A. No, sir; they wouldn't allow them.

Q. And you had no lights that night?

A. No, sir.

Q. And you had no water?

1104 A. We had a little water; the city has a small pumping station that can furnish a little water to those that live in the town, but people that lived on the outskirts or on the hill got none.

Q. For what purpose was the powerhouse being operated at that time?

A. To furnish the city lights and water.

Q. Was it being operated for any company purpose?

A. No, sir; the mill was shut down.

Q. The mill was shut down?

A. Yes, sir; some time in the latter part of September, the cylinder of the main engine broke.

Q. Where did you have that cylinder repaired?

A. We didn't get it repaired; we had to get a new one.

Q. Where did you get the new one?

A. Some place up in the north, I don't just remember, but I think it was Milwaukee, from Filer & Stowell, wherever their plant is; I think it is Milwaukee.

Q. Did you ever enter into any conspiracy or agreement to shoot or kill Lem Williams or any one else?

A. I certainly did not; I am not that kind of man.

Q. Did you know of any conspiracy or agreement that had been entered into?

A. No, sir.

Q. Did you authorize any official of the Great Southern Lumber Company to enter into a conspir-
1105 acy or agreement to kill him or anybody else?

A. No, I did not.

Q. Did you enter into any conspiracy or agreement or undertaking to destroy organized labor?

A. No, sir.

Q. What was your policy?

A. Our policy was to run an open shop.

Q. Do you know what was the policy, as assistant general manager, what was the policy of the company?

A. The policy of the company was to hire any man that wanted to work, regardless of what his affiliation was with labor organization.

Q. Did you discriminate against Union men?

A. No, sir; we had lots of them working for us at that time.

Q. Had you had lots of them working for you previous to that?

A. As far as I know, yes; I knew a great many personally that were union men.

Q. Are you opposed to organized labor?

A. No, sir, I am not.

Q. Does the company rent its houses exclusively to its employees?

A. No, sir; they rent them to others at times when they have more houses than they need; lots of people live in our houses that don't work for the company.

Q. Was that condition true at that time?

1106 A. More so at that time, because the mill was broken down.

Q. Did the Great Southern Lumber Company, or you as assistant general manager, employ any force of gun men?

A. No, sir, I did not.

Q. Did you ever have any force of man killers in your employ?

A. No, sir.

Q. Do you know Bob Carson?

A. Yes, sir.

Q. Was he working for the company at that time?

A. No, sir.

Q. Had he worked for the company previously?

A. All I know is what I heard testified on the stand about him working previously. At that part, I had charge of the logging end, and I wasn't in town.

Q. Do you know W. C. Magee?

A. Yes, sir.

Q. Was he working for the company at that time?

A. No, sir, he wasn't.

Q. Do you know whether he had ever worked for the company?

A. I understood he had years ago. I can't swear positively myself, because I wasn't living in the city at that time.

Cross Examination.

By Mr. Higgins:

Q. Mr. Cassidy, do you personally employ all of the men that work for the Great Southern Lumber Company?

A. Personally, no; they are under my supervision, though.

Q. Do you personally direct all of the men
1107 that work for the Great Southern Lumber Company?

A. Not personally, no, sir. Each foreman hires his own men in the different departments.

Q. He also has authority to discharge them too; is that right?

A. Yes, sir.

Q. You say the company was having some trouble with these men over there at that time?

A. With what men?

Q. These union men?

A. We never had any trouble with our men. The only men we had any trouble with were Lem Williams and his crowd, who stopped them from going into the power house.

Q. Did the company ever take any steps to protect its property?

A. Certainly it did.

Q. What did it do?

A. Had a guard at all the gates.

Q. And it had the property fenced in too, hadn't it?

A. Yes; the fencing had been there before this trouble started.

Q. When was the fence built, do you remember?

A. In the spring of 1919.

Q. Was there any trouble at that time?

A. Not that I know of.

Q. Do you know whether or not any of your
1108 foremen ever discriminated against men who carried union cards?

A. I never heard any complaints about it.

Q. Was the stationing of guards at the gates the only means of protecting the company's property that you resorted to?

A. Well, I think we had some extra guards in there some times.

Q. Did you have any machine guns on the company's property?

A. We had one, yes, sir.

Q. Was it ever fired?

A. I can't say; I never saw it outside of the fence.

Q. So far as you know?

A. So far as I know, it never was outside of the fence.

Q. You don't know whether it was ever fired or not?

A. I couldn't say positively if it was or not; I don't know if it was a new one or not.

Q. Did you have any guns and cartridges or anything on the company's property?

A. Each one of the watchmen at the gate had a gun.

Q. Had ammunition too?

A. Ammunition and a shot gun.

Q. What kind of ammunition did he have?

A. I couldn't tell you what kind of ammunition it was; shells I suppose, for a shot gun.

Q. Do you know whether it was buck shot or not?

A. I don't know.

Q. You say you are not opposed to organ-
1109 ized labor?

A. No, sir, I am not; I was raised a laboring man myself; I worked for longer hours and smaller pay than they have now.

Q. Now is the light plant the same plant as the water plant over there?

A. Our pumps and the city pumps are hooked together; the city has a smaller station but it is not capable of furnishing the lights and water, so our pumps in the power house are connected with theirs.

Q. And the same people who worked at the light plant and the water plant were the men whom Lem Williams ran away?

A. Yes, sir.

Q. Were they union men or not?

A. I don't know whether they were or not.

Q. You don't know that?

A. No, sir.

Q. Was anybody beaten up?

A. Not right there, but there was a man that was shot on his way home.

Q. Shot; do you know who shot him?

A. No; only what I was told, I wasn't present.

Q. You were not present when it took place, and all you know is what you were told?

A. What he told me.

Q. How long was the city without lights?

A. That one night.

Q. And how long was the city without wa-
1110 ter?

A. Same time, till next day.

Q. Now the night that Lem Williams appeared there with his men, was anybody shot that night?

A. I told you one of the day men was shot on his way home. He appeared there as the day crew was coming out and the night crew was going in.

Q. What time of night was that?

A. Around 5:30 and 6:00 o'clock.

Q. And what time was this man shot?

A. I don't know exactly what time he was shot. I went to see him about 7:30 or 8:00 o'clock.

Q. You don't know what time he was shot, do you?

A. I don't know.

Q. Except what you were told?

A. Nothing except what he told me.

Q. Anyhow that was in October?

A. I don't know positively if it was the latter part of October or the first part of November; I don't remember the dates.

Q. Was the Great Southern Lumber Company at that time employing any labor?

A. Only millwrights.

Q. Where did you get them from?

A. We got some men from up in Wisconsin, people who had built the mill originally, and we got some from here. We wanted to give the mill a general overhauling at the time the big cylinder broke, and we had to send up to Wisconsin to get experienced millwrights.

1111

Q. You are a brother of E. R. Cassidy?

A. Yes, sir.

Q. He was acting mayor, wasn't he?

A. He was, when Mr. Sullivan was away, always has been.

Q. You say you refused to recognize the union by signing a contract?

A. I refused to deal with people that were not working for us.

Q. Do you know whether or not Williams and Donnelly were representing the union men that were in your employment?

A. I don't know.

Q. Did I understand you to say that you did or did not read the contract?

A. No, sir; all I know about it is what they told me.

Q. You told Major Guerre that he should blow the whistle when he was ordered by Mr. Lindsley and Mr. Magee?

A. I told him to carry out their instructions.

Q. Did you know this man Sol Dacus?

A. Yes, sir.

Q. Who was he?

A. He was a colored fellow.

Q. Was he employed by the company?

A. Well, he worked for the company but he wasn't

at that time, as we were not operating the mill at that time.

Q. In what capacity was he employed?

A. He worked in the log pond.

Q. Do you know if he had any position
1112 with the Union?

A. Only by hearsay.

Re-Direct Examination:

By Mr. Dufour:

Q. Mr. Cassidy, you say that your foremen employ your men. How many foremen did you have on the job at that time?

A. When the full plant is running, I guess we have about thirty or forty foremen; we employ between twenty-five hundred and three thousand men.

Q. How did you overcome the difficulties of sustaining, or how did you sustain the water and the electric light supply after the difficulties that you spoke of in October?

A. Well, the next day, the city attorney, Mr. Talley, and Dr. Sol, came to me and wanted to know what we could do about water and lights, and I told them if they would give us police protection so our men would be protected and allowed to work, we would give them all the lights and water they needed. Some time during the day, we brought some men in and moved them into the power house, and they lived there and slept there possibly four or five weeks.

Q. And that is the way you were able to sustain the supply of light and water to the city?

A. Yes, sir.

1113 By Mr. Higgins:

Q. Your company was furnishing electricity to the city?

A. Yes, sir.
Q. And also running these pumps?
A. Yes, ran our pumps all the time, on account of the insurance, we have to run them steady.

Offer: Mr. Dufour:
We offer, introduce and file in evidence praecipe for the summoning of witnesses filed in this court by the plaintiff in this case.

DAVE BIENN, sworn and examined as a witness on behalf of the Defendants, testified as follows:

Direct Examination:

By Mr. Dufour:
Q. What is your name?
A. Dave Bienn.
Q. Where do you reside?
A. New Orleans.
Q. How long have you lived here?
A. Eighteen months.
Q. Where did you reside previous to that?
A. In Bogalusa.
Q. How long did you reside in Bogalusa?
A. Thirteen years.
Q. Were you residing in Bogalusa on November 22nd, 1919?
A. Yes, sir.
Q. What was your business?
1114 A. I was in the furniture business.
Q. For yourself?
A. Yes, sir.
Q. Own your own business?
A. Yes, sir.

Q. Ever work for the Great Southern Lumber Company?

A. No, sir.

Q. Were you one of the special police of the City of Bogalusa at that time?

A. Yes, sir.

Q. Did you respond to the signal on November 22nd, 1919?

A. Yes, sir, I did.

Q. Where did you go?

A. Went to the City Hall.

Q. Were you among the officers that went down to Williams' property?

A. I didn't go down.

Q. Why?

A. I got to the City Hall a little bit late, and when I got there and asked Chief Magee for information, he told me there was enough people went down there, so I turned around and went home.

Q. He told you enough people had gone down there?

A. Yes.

Q. Where did you go after that?

A. I went to Avenue B—I was driving a little truck and I went to Avenue B, stopped at the post office, got some mail, and from there I went towards home, on Columbia Road, where I live. As I passed the
1115 saw mill, I heard shooting, and when I got to the corner of Fourth Street and Columbia Street, I turned around going north, and I saw there was a big crowd, and I saw there wasn't any use my going, so I turned around and went back.

Q. So you didn't reach the scene of the shooting?

A. No, sir.

Q. You are one of the defendants in this case?

A. Yes.

Q. Did you answer the summons for the special police that had been given some months before that?
A. No, I did not.
Q. Were you in town?
A. I was out of town.
Q. You only heard about it afterwards?
A. Afterwards.

No Cross Examination:

1116 Mr. Dufour:
Defendants rest.

Mr. Higgins:
Under reservation of our rights and agreement of counsel, we not introduce and file in evidence return to the subpoena duces tecum that was issued by the Court on motion of the plaintiff, marking same for Identification, "P—6".

1117 REBUTTAL.

J. E. WEBER, sworn and examined as a witness on behalf of the Plaintiff, testified as follows:

Direct Examination:

By Mr. Higgins:
Q. What is your name?
A. J. E. Weber.
Q. Mr. Weber, where did you live during November 1919?
A. In Bogaiusa.
Q. By whom were you employed?
A. Great Southern Lumber Company.

Q. In what capacity?

A. In millwrighting capacity.

Q. Did you have any conversation with any official of the company with reference to a union card?

A. Yes, sir.

Q. With whom did you have that conversation?

A. Major Guerre.

Q. What was the conversation?

A. Well, I was working as a millwright at the saw mill. They gave orders to cut down the force, and he asked me at that time was I one of them. Well, I was laid off. I walked around town a couple of weeks, I guess, looking around, and I couldn't find anything, so I went to Lem and asked him if he could see Major Guerre and do what he could for me, and he went over—

Q. Don't tell us what somebody told you.

1118 Tell us what conversation you had with Major Guerre. Did you have any conversation with Major Guerre?

A. Well, he told me—he asked me if I was a union man—

By Mr. Guerre:

Q. Who asked you?

A. Major Guerre.

By Mr. Higgins:

Q. Go ahead?

A. He says, "Well, if you want to go back to work, you can tear up your card," and I told him I wouldn't do it.

Q. What card?

A. Union card.

Cross Examination:

By Mr. Miller:

Q. When was it that you had that talk with Major Guerre?

A. About two weeks after I was laid off.

Q. Well, when were you laid off?

A. Oh well, I left there before that trouble occurred, and I have been here ever since, in the city.

Q. Now when was it you were laid off?

A. Well, let's see; I think it was in October.

Q. How long did you stay in Bogalusa?

A. Well, I stayed there about two or three weeks, I guess, and then I came down to the city.

Q. You went to see Lem Williams about getting re-instated?

A. I went to see what he could do for me with Major Guerre, and he went and saw Major Guerre,
1119 and Major Guerre sent for me to come over there.

Q. Sent what?

A. Sent for me to come over there, and I went and seen him.

Q. And what did he tell you?

A. He told me if I wanted to go back to work, I could tear up my card, and I told him I wouldn't do it.

Q. Where was it he told you this?

A. In the office at the saw mill; he had a little office there that I seen him in.

Q. How many men were working for the Great Southern Lumber Company at that time?

A. I couldn't tell.

Q. Lots of millwrights working for them, weren't there?

A. Yes, sir.

Q. Some of them union men?
A. They was all union men until—

By Mr. Higgins:
Q. You don't know whether the company knew they were union men, do you?
A. Well, I guess they did, because we were pretty well organized; nearly all of us belonged to it.
Q. How many members did you have in that union?
A. Well, I couldn't exactly tell you, but about 90% no doubt.

1120 JOSEPH BOURGEOIS, sworn and examined as a witness on behalf of the Plaintiff, testified as follows:

Direct Examination:

By Mr. Higgins:
Q. What is your name?
A. Joseph Bourgeois.
Q. Where did you live during November 1919?
A. Bogalusa.
Q. By whom were you employed?
A. Great Southern Lumber Co.
Q. What were you doing for them?
A. I used to millwright for them.
Q. Were you a member of the union?
A. Yes, sir.

Objection: Mr. Dufour:
If your Honor please, I want to interpose an objection at this time, because I don't know when we will ever

get through the trial of this case. I object to the introduction of this evidence on the ground it is not legitimate rebuttal. The charge is made in the petition that this conspiracy was formed for the purpose of destroying organized labor and that we killed him for the purpose of destroying organized labor. Any testimony in support of that allegation should have been put in, as some of it was, by a witness by the name of Rowan, I believe, in chief, not in rebuttal. That is an issue tendered by the pleadings.

The Court:

I will admit the evidence so far as it goes to disprove the specific testimony of the defendant.

1121 Mr. Dufour:

We reserve a bill.

Q. Did you carry a union card?

A. Yes, sir.

Q. In what capacity were you employed?

A. Millwright, working at the saw mill.

Q. Which saw mill?

A. Great Southern Lumber Company.

Q. Did you ever have any conversation with any official of the Great Southern Lumber Company with reference to your union card?

A. Yes, sir.

Q. With whom?

A. Major Guerre. He told me that I would have to get rid of my card before I could go back to work.

Q. Was that prior to the killing?

A. A little after the killing.

Objection: Mr. Dufour:

We ask that that evidence be stricken out.

Q. How long was that after the killing?

A. Oh, not so very long. I was crippled at that time, at the time of the killing, I was in the hospital—well, I was out of the hospital when the killing was on, I was at the house. I went back to the mill to get a job, and he told me I couldn't go to work, unless I got rid of my union card.

Q. You had a conversation with Major
1122 Guerre?

Objection: Mr. Dufour:

Wait a minute. What about proof of the time? I want the Court to rule on my objection.

By the Court:

Q. How long after the killing?

A. I don't exactly remember; two or three weeks; may be not that long.

The Court:

I will let the evidence in.

Mr. Dufour:

We reserve a bill.

Q. You started to say something?

A. Then I was discharged from the hospital and started to go to work again, and they told me I had to get rid of my union card.

Objection: Mr. Dufour:

Wait a minute. We object. I want counsel to ask the witness questions. He offers his testimony too freely.

Mr. Higgins:
If your Honor please, he can't control me in the conduct of my case.

The Witness:
They told me—

Mr. Dufour:
Wait a minute. I have the privilege of objecting. That is not responsive to any question.

1123 The Court:
Is this the same incident, or how many times did this happen?

Mr. Higgins:
The witness was about to say something in response to a previous question, if he had any conversation with Major Guerre about a union card, and he started to say something else and he was stopped.

The Court:
Are you talking about the same occasion; one occasion or two occasions?

The Witness:
One occasion.

Q. Go ahead then?
A. Well, after that they told me to vacate the house.
Q. What house?
A. The Great Southern Lumber Company house. I wasn't quite ready to go to work yet, but they notified me to vacate the house.

Cross Examination:

By Mr. Dufour:

Q. You don't know whether they had need of the house?

A. No, sir; they had no need for my house at all; they had a good many houses vacant at that time.

Q. There were a lot of union men working for the company at that time, were there not?

A. They had to get rid of their cards if they were working.

Q. How do you know that?

A. Well, I know a number of them.

Q. There were a lot of union men working
1124 for the company, weren't there?

A. No; I don't believe there was.

Q. I ask you if there were not several hundred union men working for the company at that time?

A. There had been before the shooting started, but everybody left after that; there was not that many union men working for the company then.

Q. Well, how many were working for the company?

A. There wasn't but a few of them working for them then.

Q. How many?

A. Well, they moved away, didn't come back.

Q. Don't you know there were a lot of union men at work repairing that mill?

A. I can't say that.

Q. You can't say that, you don't know?

A. No.

Q. You said a number of men told you something, did you?

A. I know some fellows working in the mill got rid of their cards—they had to get rid of their cards.

Q. Who told you that?
A. I know they had.
Q. Did any official of the company tell you that?
A. No official; they told me their own self, if a man wanted to stay in town and go back to work, he had to get rid of his card.
Q. Are you a brother of Armand Bourgeois?
A. No, sir.
Q. What relation are you to him?
1125 A. No kin at all.

At this point a recess was taken until 2:00 P. M.

After recess.

GEORGE W. MOORE, sworn and examined as a witness on behalf of the Plaintiff, testified as follows:

Direct Examination:

By Mr. Higgins:
Q. What is your name?
A. George W. Moore.
Q. Mr. Moore, where do you live?
A. 2506 State Street.
Q. Do you know a man by the name of Norman Simmons?
A. Yes, sir.
Q. Did Mr. Simmons ever make a statement to you about what he knew about the killing of Lem Willams?
A. In a general way, yes.

Objection: Mr. Dufour:
We object.

Mr. Higgins:
This is for the purpose of rebutting the testimony of Mr. Simmons.

The Court:
I will have to sustain the objection.

Mr. Higgins:
I except to the ruling of the Court and reserve a bill.

1126 Mr Higgins:
I would like to go through the form of putting Mr. James O'Reilly on the witness stand for the same purpose, your Honor making the same ruling, and the same bill reserved.

The Court:
The objection is sustained for the reason that no foundation was laid for that in the examination of Mr. Simmons when called as a witness by the defendant.

Mr. Higgins:
To which ruling I except and reserve a bill.

JAMES O'REILLY, sworn and examined as a witness on behalf of the plaintiff, testified as follows:

Direct Examination:

By Mr. Higgins:
Q. What is your name?
A. James O'Reilly.
Q. Mr. O'Reilly, what official position do you hold in the Parish of Orleans?
A. Official position?

Q. Yes?

A. I hold the position of member of the State Legislature.

Q. Well, that is an official position, isn't it? Do you know a man named Norman Simmons?

A. Yes, sir.

Q. Did you ever have any conversation—

Objection: Mr. Dufour:

We object on the ground if they desire to impeach the witness, they have not done what the law requires.

1127 Mr Higgins:

Give me a chance to ask my question.

Q. Did you ever have a conversation with a man named Norman Simmons about the killing that took place on November 22nd, 1919?

Objection: Mr. Dufour:

We object to the introduction of this evidence on the ground that no foundation has been laid as the law requires.

Mr. Higgins:

The purpose is to show bias on the part of Mr. Simmons.

Mr. Dufour:

You can't show bias that way.

The Court:

If you are going to show it the same way as the other witness, I am going to make the same ruling.

Mr. Higgins:

That is all, Mr. O'Reilly.

The Court:

Wait a minute. As I understand it, the purpose of the

evidence is to show by this witness that the witness Simmons, called by the defendant, has made a statement to the present witness of a state of facts different from that which he testified to?

Mr. Higgins:
That's it, your Honor.

The Court:
The objection being made, my ruling is that I sustain the objection on the ground that no foundation has been laid for the purpose of contradicting that
1128 witness's statements, the witness Simmons' statements.

ALBERT CALHOUN, sworn and examined as a witness on behalf of the plaintiff, testified as follows:

Direct Examination:

By Mr. Higgins:
Q. What is your name?
A. Albert Higgins.

Objection: Mr. Johnson:
If your Honor please, I want the witness to be interrogated as to whether or not he has been sitting in the court room during the trial. My recollection is I saw him in the court room.

The Witness:
Not me.

Q. Where do you live?
A. 1629 Carondelet.

Q. New Orleans?
A. Yes, sir.
Q. Where were you living during November 1919?
A. Bogalusa.
Q. By whom were you employed while you lived in Bogalusa?
A. Great Southern Lumber Company.
Q. Who was your superior officer?
A. Major Guerre.
Q. Were you a union man?
A. I was.
Q. Did you carry a union card?
A. I did.

Q. Did you ever have any conversation
1129 with Major Guerre about the Union card?
A. Yes, sir.

Q. When was that?
A. Along about November 1st.

Objection: Mr. Dufour:
Of course we are reserving the same objection, same ruling and same bill.

Q. When was it?
A. Along about November 1st, or the last days of October—I don't remember just which—I never did expect I would be called upon to witness—it was along about that time.
Q. What did he tell you, Mr. Calhoun?
A. He asked me whether I carried a card, and I told him I did, and he told me, "Well, we have determined not to work any one that has a card." I said, "What do you mean by that," and he said, "You can tear your card up or you get no job." "Major," I said, "I won't tear it up." "Well," he said, "you needn't come back," and I didn't come back.

Q. You were discharged because you carried a union card?

A. Well, that is the way I took it.

Cross Examination:

By Mr. Miller:

Q. How long did you work for the Great
1130 Southern Lumber Company?

A. I went there in 1912, and worked up to 1919, but I didn't work for them all the time; I worked for the railroad from '14 to '17.

Q. Who were you working for in October and November, 1919?

A. I was working for the Great Southern, watching in the yard.

Q. Did you work all during the month of October?

A. Yes, sir, worked up to the time of the trouble.

Q. You were a watchman in the yard?

A. Yes.

Q. You worked up to the time of the trouble?

A. Till they forced me to do away with my union card.

Q. When you say "this trouble," you mean the killing of Lem Williams?

A. No, no; it was before Lem Williams was killed. I wasn't in the city when Mr. Williams was killed.

Q. What?

A. I wasn't in the city when Lem Williams was killed.

Q. This was about the 1st of November, you say?

A. This card business, yes, sir.

Q. You were working as watchman at the gate?

A. Yes, sir.

Q. Which gate?

A. The gate from the dry plant coming out of the side at the lumber yard.

Q. What was your business there, or duty as watchman?

A. Keep tramps and fellows out, and keep everything in order.

Q. And you were a union man were you?

A. Yes, sir.

Q. Having some labor troubles at that time,
1131 were you not?

A. How is that?

Q. Having any trouble in Bogalusa at that time?

A. No; if there was, I didn't know it, up to that time I didn't know it, didn't know a thing about any trouble.

Q. Well, had the lights and water been shut off at any time?

A. If they had, I don't remember.

Q. You don't remember?

A. No; we got water all the time.

Q. At your house?

A. Yes, sir.

Q. You got water and lights all the time?

A. Well, I wasn't using any electric light at my house; we didn't have any electric light, but we had city water.

Q. Did you ever have any trouble at the gates, men congregating there?

A. No, sir.

Q. Everything was peaceable and quiet?

A. (No answer.)

Q. Everything was peaceable and quiet all over Bogalusa?

A. Well, I don't know what gone on all over Bogalusa, but no trouble that I know of.

Q. You didn't hear any trouble or disturbance the day the Major sent for you?

A. He came to me at the gate.

Q. Anybody else guarding the property there besides you?

A. How is that?

1132 Q. Was anybody else guarding the property there besides you?

A. Yes; several watchmen all over the plant.

Q. Was there anybody at the same gate with you?

A. No; I was the only one.

Q. When were you on duty; day time or night time?

A. Day time.

Q. He came to you and had this conversation with you?

A. Yes, sir.

By Mr. Dufour:

Q. You were just a guard to protect the company's property?

A. Yes, sir.

By Mr. Talley:

Q. Mr. Calhoun, were you working on November 13th, when you had this conversation?

A. I told you I was along to November 1st or the last days of October; I don't remember which.

Q. Were you working for the company at this time?

A. I was working with him on June.

Q. You were working at that time?

A. Yes, sir.

Q. Now, Mr. Calhoun, you say you were a member of the Union?

A. I was.

Q. Now, is it not true that the laborers were called out just a few days after the mill shut down, and didn't

Mr. Williams get out circulars and distribute them all over the town just a few days after the mill had shut down the last days of September?

1133 A. I heard he did, but I didn't see any.

Q. Were you not a union man?

A. I was.

Q. And you kept on working?

A. I worked right on till Major Guerre stopped me.

Q. You didn't obey that order and come out?

A. I had no orders to come out.

Q. Did you attend the meetings?

A. No, sir, I don't attend the meetings.

Q. You mean you don't attend the union meetings?

A. No, sir.

Q. And do you mean to say some of those boys didn't tell you about the circularizing?

A. No; I wasn't told about it.

Q. Didn't hear anything about it?

A. (No answer.)

Q. Didn't know anything about it?

A. (No answer.)

Q. A good union man and you kept on working at the gate?

A. I was working at the gate.

By Mr. Higgins:

Q. What was the general reputation of Lem Williams for peace and quiet in Bogalusa?

Objection: Mr. Dufour:

We object to that. That certainly is not rebuttal.

The Court:

Let him answer.

A. Quiet. As long as ever I known him, I never heard anything against him. I never heard anything about him being a terrible man until I heard it here.

1134 By Mr. Johnson:

Q. Did you hear it in the court room?

A. In the Court, yes, and outside

Q. I thought you said you hadn't been in the court room?

A. No; I hadn't been in the court room.

By Mr. Higgins:

Q. Were you present in the Court room during the conduct of this trial?

A. No, sir; this is the first time of my being here.

By Mr. Talley:

Q. Mr. Calhoun, you mean to tell me you never heard of this trouble in Bogalusa until this trial of this case?

A. You see, I worked out at the plant, I didn't—

Q. I understand, but didn't your family live in the town?

A. They did.

Q. And you mean to tell me your family never told you anything about the killing in Bogalusa?

A. Listen. I didn't say anything about the killing. I said I wasn't in the city at the time.

Q. Didn't you say just now you heard nothing about the trouble till this trial?

A. (No answer.)

1135 W. W. RAWLS, sworn and examined as a witness on behalf of the Plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. W. W. Rawls.

Q. Mr. Rawls, where did you live during November, 1919?

Objection: Mr. Dufour:

Now, if your Honor please, we object, on the ground that this witness has been sitting in the Court room during this trial. Mr. Talley and Mr. Johnson are prepared to take the stand and swear to that; they have known him all their lives.

Q. Were you sitting in the Court room during the conduct of the trial?

A. I was here Monday morning.

Q. Were you in the Court room?

A. I was here with my son.

Q. Were you in the Court room when the case was being conducted?

A. Yes, sir.

Q. All right. Get down.

W. J. MARTIN, sworn and examined as a witness on behalf of the plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

1136 A. W. J. Martin.

Objection: Mr. Johnson:

If the Court please, we want to enter the same objection. The witness knows, and I know—I saw him sitting there with Mr. Rawls all day Monday. The witness won't deny he was in the Court room during this trial.

Mr. Higgins:

I would like to say this; when we conduct a case, we can't be continually going over the Court room to see who is sitting in the back. The Court instructed the marshal to keep these men out who were witnesses in the case, and if the men happen to come back into the Court room without our seeing them, I don't think we ought to be deprived of the benefit of their testimony in rebuttal on that ground.

The Court:

That lies in the discretion of the Court. I will let him proceed and see what the nature of his testimony is. It may be such that it would not make any difference whether he was in the Court room or not.

Mr. Dufour:

I reserve a bill.

Q. Where were you on November 22nd 1919?
A. Bogalusa.
Q. About noon?
A. I was down in Mr. Williams garage.
Q. About what time?
A. Just before noon.
Q. Did you see a man named Norman Simmons?

1137 Objection: Mr. Johnson:

If your Honor please, we interpose the same

objection. He was sitting in the Court room while Simmons was testifying.

The Witness:

I didn't hear any of Simmons' testimony.

Mr. Higgins:

This is not for the purpose of impeaching Norman Simmons, but contradicting it purely and simply. He is going to tell us what transpired there at the time Norman Simmons was there.

The Court:

I will let him testify.

Mr. Johnson:

We reserve a bill.

Q. Did you see a man named Norman Simmons there when you were there?

A. Yes, sir.

Q. Now what time was that?

A. Well, I was there from about 9.30 until 12.00 o'clock. Norman Simmons, I saw him there between that time and 12.00 o'clock.

Q. Did you hear Lem Williams have any conversation with a man named Sol Dacus any time when you were there?

A. No, sir.

Q. Did you see Lem Williams talking to a man named Sol Dacus during the time you were there?

A. I did not, sir.

Q. Did you see a man named Bouchillon there?

A. I did.

Q. State whether or not, of your own knowledge, Mr. Bouchillon placed any boards in the win-
1138 dow of the office which faced Columbia Road?

Objection: Mr. Dufour:

We object. If the first place, this witness wasn't there at the time that the boards were supposed to have been placed in the window, and in the second place, that is a leading question.

The Court:

As to being a leading question, you can change the form of the question. As to whether or not he was there, you will have to find that out by examination.

Q. What time did you say you were at Williams' office?

A. I was there from 9.30 until 12.00 o'clock.

Q. And you were in his office?

A. I was.

Q. During the time you were at the office of Williams, do you know whether or not that window was open or shut?

A. It was open, because I sat in the window.

Q. Did you see anybody place any obstruction in that window?

A. I did not, nor any other.

Q. Did you hear Lem Williams engaged in any conversation with Norman Simmons that morning?

A. Well, no more than talking around there; there was no private conversation that I saw.

Q. Was there anything said about a mob?

A. No, sir; I never heard it.

Q. Did you hear Lem Williams talk to Simmons about any guns?

1139 Objection: Mr. Dufour:

If your Honor please, we object. It is a

leading question, "about any guns." He has had the benefit of his own testimony. Let him produce proper rebuttal and ask him what took place.

The Court:

Better confine yourself to asking what the conversations were and what he saw.

Q. What conversations did you hear between Williams and Simmons, do you recall?

A. Well, I can't recall all of it, just the early part of it about how everything was going, how the lodge was getting on, how many members we had and such things as that.

Q. Mr. Martin, see if you can recall all of the conversation you heard between Simmons and Williams?

A. No. I don't think I could, exactly; first one thing and then another. There was nothing said about any guns, no mob, or anything of the kind; just an ordinary conversation.

Q. State whether or not there was any conversation about any trouble?

A. None whatever; wasn't anything mentioned to me about any trouble.

Q. Did you see Major Guerre that day?

A. I did.

Q. Where did you see him?

A. I saw him going in the gate, in a car.

Q. What time was that?

A. Right after the whistle blew between
1140 12.00 and 1.00 o'clock.

Q. What gate did you see him go in?

A. The big gate that goes to his office.

Q. Where is his office?

A. Inside the fence right opposite the power house.

Q. On what property?
A. Great Southern.
Q. Was anybody with him?
A. A good many with him.
Q. About how many?
A. I suppose fifteen or twenty.
Q. Was that before the whistle blew or after?
A. After the whistle blew.
Q. How long after the whistle blew?
A. About fifteen minutes.

Objection: Mr. Miller:
If the Court please, that is not rebuttal testimony.

Mr. Dufour:
What is all this about Major Guerre going in the saw mill with fifteen or twenty men? We ought to have some protection against testimony of this character.

Mr. Higgins:
Major Guerre testified he was at home.

Mr. Dufour:
Yes, but somebody testified he wasn't.

The Court:
Well, let him contradict him if he can.

Q. Go ahead and answer the question; where did you see him and whom did you see him with?
A. When the whistle blew, there was a lot
1141 of cars going into this gate with Major Guerre, a whole mob of them was together.
Q. Have any guns with them?

A. Had guns. Bob Carson, and Wiley Magee, Willis, Stratton. Of course I couldn't recognize them all, because they were going in too fast.

Q. Was that before the shooting or after the shooting?

A. Before the shooting.

Cross Examination.

By Mr. Miller:

Q. Where did you live at that time?

A. In Bogalusa.

Q. I know you did, but what part of Bogalusa?

A. Avenue D.

Q. How far is that from the mill?

A. It is about two blocks, I guess.

Q. Where you lived is two blocks from the mill?

A. Where I did live; I had to move.

Q. I asked where you lived at that time; two blocks from the mill?

A. Yes, sir.

Q. Which side of the mill; east side or west side?

A. Southeast side.

Q. You didn't have to go across the railroad track to get to your house going from Lem Williams, did you?

A. I did, yes, sir.

1142 Q. You lived on the southeast side?

A. Towards Pleasant Hill.

Q. You call that south east; southwest, isn't it?

A. Southeast from where the mill is, a little.

Q. Pleasant Hill is east of the mill?

A. A little southeast.

Q. Don't you know it is southwest from the mill?

A. I don't know.

Q. You don't know east from west in Bogalusa, do you?

A. Oh, yes, sir.

Q. How does the railroad run there, what direction?

A. The railroad runs a little north, east, north, south.

Q. Runs all north and south, don't it?

A. Something like that.

Q. Which side of the road did you live on?

A. Lived on the southeast side.

Q. Towards Pleasant Hill?

A. Sure, Pleasant Hill.

Q. Did you live on Pleasant Hill?

A. I lived on Pleasant Hill, after the Great Southeran put me out of the house, yes.

Q. I asked where were you living at the time of the shooting. I didn't ask you anything that allowed you to testify the company had put you out of the house. I asked you where you lived at the time of the shooting.

A. I lived on Avenue D.

Q. And that is east of the mill, isn't it?

1143 A. Right this way, a little southeast of the mill, I take it to be.

Q. You had dinner at home that day?

A. I did.

Q. When did you have dinner; before you went to Lem Williams or afterwards?

A. After I came from Lem Williams.

Q. What time did you have dinner?

A. Well, it was about 1.00 o'clock or something after.

Q. Were you working then?

A. No, sir.

Cross Examination.

By Mr. Talley:

Q. Mr. Martin, who were in Lem Williams office from 9.00 to 12.00?

A. Who was in there?
Q. Yes.
A. Well, there was myself, Lem Williams, O'Rourke.
Q. Williams, O'Rourke and yourself. Who else?
A. Well, there were several in and out of there. I can't recall them all.
Q. You can't recollect?
A. Not now, no, sir.
Q. Was there a fellow there named—
A. Bouchillon.
Q. —McAlister; did you see Mr. McAlister?
A. No, sir.
Q. Did you see Mr. Richau?
A. Yes; he was there.
Q. Did you see Mr. Sumrall?
A. Mr. Sumrall. I think he was in there
1144 that morning. I am not sure.
Q. How long did he stay?
A. Mr. Sumrall?
Q. Yes.
A. I don't know, sir.
Q. Did you see Mr. Phelps?
A. Mr. Who?
Q. Mr. Phelps.
A. I don't recollect him. There was a good many in and out. I can't recall them all to save my life.
Q. Where did you stay in the office, Mr. Martin. You stayed there three hours. Did you stay in the office all the time?
A. Not all the time; in the office or outside in the yard.
Q. Well, these people, if you had been there, could have seen you, could they?
A. They could.
Q. Didn't try to hide yourself, did you?
A. Not a bit; nothing to hide for.

Q. Where were you standing when you saw Major Guerre?

A. Where was I standing; I was going up the street.

Q. Going up the street?

A. Yes, towards the commissary.

By Mr. Miller:

Q. Wait a minute; I want to ask Mr. Martin a question. (Witness called back to the witness stand.) Mr. Martin, you say you saw Richau there?

A. I did.

Q. Bouchillon?

A. Bouchillon, O'Rourke.

1145 Q. O'Rourke. Lem Williams?

A. Lem Williams.

Q. Did they stay there all the time you were there?

A. They did.

Q. All of them?

A. Yes, sir.

Z. D. NICHOLS, recalled:

Objection: Mr. Dufour:

Now, if your Honor please, this witness has already taken the stand and testified, and he has been in the Court room ever since. We all know he has been in here, sitting in the Court room.

The Witness:

I beg your pardon. I have not been in the Court room.

Mr. Dufour:

I will take the stand and swear he was.

Direct Examination.

By Mr. Higgins:

Q. Mr. Nichols, have you been in the Court room during the time this trial was being conducted?

A. No, sir, I have not. The only time I spent in this trial was on the witness stand. I was discharged on Wednesday and left the Court and haven't been back since. I have been working over the river.

Mr. Dufour:

If your Honor please, we have all seen him in the Court room, including myself.

1146 The Court:

I will let the witness testify. He says he has not been here.

The Witness:

Your Honor, I have been working at Westwego.

Mr. Dufour:

I have seen you in the hall here.

The Witness:

I was discharged Wednesday evening or Thursday evening, and on Friday following, I came up here with some one of the witnesses in the case, and since then I have not been here, haven't been in the building.

Q. Let me ask you another question; were you present during the time Norman Simmons testified?

A. No, sir; I didn't know he was here until I received a subpoena yesterday and talked to you last night.

Q. Now where were you on November 22, 1919, after you left the office of Lem Williams?

A. I was in the office three times in the morning.

Q. I asked you where were you after you left there.

A. You mean the last time?

Q. Yes.

A. I was home.

Q. Did you have any occasion that day to drive your truck north of the track?

A. I did.

Q. What did you have in that truck?

A. I didn't have anything. I was running empty.

Q. Did you have any guns in there?

A. No, sir.

Q. Did you make any attempt to drive some arms or ammunition in that truck to Lem Williams place that day.

A. I did not.

No cross examination.

1147 N. J. HOEY, sworn and examined as a witness on behalf of the plaintiff, testified as follows:

Direct Examination.

By Mr. Higgins:

Q. What is your name?

A. N. J. Hoey.

Q. Where did you live during November, 1919?

A. In Mrs. Dimitry's boarding house.

Q. What place?

A. In Bogalusa.

Q. What were you doing at that time?

A. I was an electrician with the N. O. G. N. Railroad.

Q. You were a Union man?

A. Yes, sir.

Q. Did you hold any position in the Union?

A. I was Assistant Treasurer of the Federation of Railroad Laborers.

Q. What was the general condition in Bogalusa during October and November, 1919?

Objection: Mr. Dufour:

If your Honor, please, we submit that is not rebuttal. That is one of the charges in their petition.

Mr. Higgins:

I want to rebut this particular, that the Union men were responsible for all the lawlessness by this witness.

The Court:

I overrule the objection.

Mr. Dufour:

I except to the ruling and reserve a bill.

1148 A. Well, conditions were peaceful, insofar as organized labor was concerned, but there seemed to be a disturbance being created by what was known as,—well you would call them "Gunmen" or "Strongarm Men," we call them,—at the Great Southern Lumber Company, "The Strongarm Men." There seemed to be an objection to any man, if he was known to carry a card, Bogalusa was no place for them.

Objection: Mr. Dufour:

We object to, "what seemed to be."

A. It did not seem to be to me, I felt that way.

Q. After the shooting,—immediately after the shooting, where did you go?

A. I left there Sunday morning and came to New Orleans;; my wife, daughter and myself, and then we returned to Baton Rouge to see Governor Pleasant.

Q. On what business were you going to see the Governor?

A. A commitete of workmen from Bogalusa, to call for protection.

Q. What request did you make of the Governor?

Objection: Mr. Miller:

We object to that.

Mr. Higgins:

It was brought out that these men were the cause for the lawlessness. I think it is very material, so far as rebuttal testimony goes, to show what mission
1149 these people had to see that the law was carried out.

The Court:

I sustain objection. It was after this occurred and it was a request made. That does not show anything at all.

Mr. Higgins:

I reserve a bill.

Q. Were troops, the State troops sent there?

Objection: Mr. Dufour:

We object.

The Court:

That came out in the evidence about the State Guards being there.

A. The State Guards,—United States Troops were there.

Q. Where were they sent from?

A. They were sent from Mobile.

Q. Did you have anything to do with the sending of those troops there?

A. It was at my request of Governor Pleasant. He declined to send them at first. He said.

Objection: Mr. Miller:

We object.

Q. Do you know, to what knowledge you have, whether negro labor in the New Orleans Great Northern shops was organized at that time?

A. They were, positively, had been for several months.

Q. How long was this before the Williams shooting?

A. The negro employees of the Great Northern had been organized?

1150 Q. Yes.

A. They were organized sometime in April, 1919.

Q. Was there any trouble at that time?

A. No, sir.

Q. Did you know Lem Williams?

A. Yes, sir, very well.

Q. What was his general reputation for peace and quiet in Bogalusa?

A. I never knew of anyone there who was more peaceful or quiet. He always wanted that. That was his instructions.

Q. Do you know of what proportion of the population in Bogalusa was laboring people,—Union people?

A. I could not very well give the proportion.

Cross Examination.

By Mr. Dufour:

Q. How many negroes does the Great Northern Railroad have in its shops?

A. It would be hard for me to say.

Q. Don't you know there was not more than four or five?

A. There was that many in my house alone. As I should judge, about ten or a dozen.

Q. Ten or twelve men?

A. Yes, but now understand that the organizing of the New Orleans Great Northern Railroad negroes, including the maintaining of waymen, the men employed in track work.

1151 By Mr. John:

Q. You mean the Section crews were organized?

A. Yes, sir.

By Mr. Miller:

Q. Don't you know that they were not?

A. No, sir, I don't know that they were not, when I say that they were.

Q. Don't you know that in an application to a labor board, in reference to their wages, the labor board said that they were not organized and did not contend they were?

A. I didn't know that there was until sometimes afterwards. There was no United States Labor Board at all. The United States Railroad Labor Board didn't come into existence until sometime after that.

Q. When they applied to the Labor Board in 1920, they were not organized?

A. There was plenty of time to have disrupted that organization.

Q. You don't know that they were disrupted or not?
A. I don't know. I was in New Orleans.

1152 MRS. JIM WILLIAMS, recalled:

By Mr. Higgins:
Q. Mrs. Williams, were you present in the Lem Williams' Office on November 22nd, 1919, at the time the Special Officers came into Williams' place?
A. No, sir.
Q. Where were you?
A. I was washing on my back gallery, some baby's clothes.

JIM WILLIAMS, recalled:

By Mr. Higgins:
Q. Mr. Williams, on November 22nd, 1919, while you were present at your brother's office, did you hear any conversation between your brother and a man named Norman Simmons?
A. I did not.
Q. Did you leave that office at any time and go to get a shotgun?
A. I did not, no, sir.
Q. Did you leave the office and go and get a shotgun or rifle?
A. No, sir, I did not.

By Mr. Talley:
Q. You did leave the office just a little while before the disturbance, didn't you?
A. No, sir, I did not.

Q. Didn't you testify before, you were getting shaved, at least one time?

A. I hadn't been at the office when I got the shave, I was on my way back.

1153 Objection: Mr. Higgins:

If your Honor please, none of that was put out on direct examination.

The Court:

They have a right to ask that in cross-examining a witness.

MRS. IDA MELANCON, recalled:

By Mr. Higgins:

Q. Mrs. Melancon, where were you standing on November 22nd, 1919, when the Special Officers came on the property of Lem Williams, at the time they entered the gate?

A. I went in at the gate about the same time they did, and they kept coming in and I stopped at the end of the boat that was in the yard.

Q. Were you coming in the property, or going out?

A. I was running in. I could not run in with the crowd, and therefore I stopped at the end of the boat when they were going in.

Q. You were not going out at all?

A. No, sir.

MRS. L. E. WILLIAMS, recalled:

By Mr. Higgins:

Q. Mrs. Williams, where were you on No-
1154 vember 22nd, 1919, at the time the special officers entered your husband's yard?

A. I was right in my yard.

Q. When did you leave there?

A. I left there after my husband was killed, when I seen Wiley Magee shoot him, when the blood flowed off his body and he hopped off the floor and then fell down. After the killing, that was when I left and ran screaming for help.

Q. Did you leave before the first shot was fired?

A. No, sir.

Q. Did you see a man by the name of Pool?

A. Mr. Pool; no, sir.

Q. Did you say to Mr. Pool "Don't shoot till I get out?"

A. No, sir.

Offer: Mr. Higgins:

I am going to offer the Act of the Legislature incorporating the town of Bogalusa, Act 14 of 1914.

The Court:

The Court takes notice of public acts.

J. C. BROOKS, sworn and examined as a witness on behalf of the plaintiff, testified as follows:

1155 Direct Examination.

By Mr. Higgins:

Q. Mr. Brooks, where did you live during November, 1919?

A. The City of Bogalusa.

Q. What was the general condition of the town at that time?

A. Everything was quiet.

Q. Did you hear of any disturbance?

A. Well, we began organizing labor organizations and as we were organizing, they would fire everybody out of the Plant and replace them by niggers. We took it up with them people and told them we would endeavor to organize the niggers if they would not stop replacing white men with niggers; so after repeatedly taking it up with them, we went to work and began organizing the niggers into a labor union and about September 23rd, the main cylinder, about eight o'clock in the evening,—the two main cylinders—in the back engine blew out. I was an employee of the Great Southern Lumber Company at that time.

Objection: Mr. Dufour:

If your Honor, please, I think the Court had better ask him questions of rebuttal, so we can see what this is all about. I asked the witness did he hear of any disturbance, and the witness makes a long story.

Q. Were you a member of the Union?

A. Yes, sir; I was.

Q. Were you an officer of the Union?

A. Yes, sir; I was.

Q. Do you know if there were any disturbances that the Union was responsible for?

1156 A. No, sir. They were always asked to be law-abiding. I believe that is in the Constitution of the American Federation of Labor.

Q. Do you know anything about those disturbances at the jail?

A. I do not.

Q. Do you know anything about the disturbances at the light plant?

A. I do not.

Q. Did you ever go to the City Commission Council Meetings?
A. No, sir; I did not.

Mr. Higgins:
If your Honor, please, that is our case.

Mr. Dufour:
If your Honor please, I want to tender Major Guerre in surrebuttal.

The Court:
I am not going to hear any surrebuttal.

Mr. Dufour:
Will your Honor permit us to reserve a bill to that ruling?

Mr. Dufour:
Now, if your Honor, please, on behalf of the defendant, the Great Southern Lumber Company, we move the Court to direct the Jury to find a verdict in favor of the defendant, and ask leave to tender the motion in writing in due course.

At this point, the further hearing of the case was continued to Monday morning, April 27th, 1925.

Monday, May 4th, 1925.

1157 All parties being present, the hearing of the case was this day resumed.

The Court heard argument on motion to direct a verdict in the absence of the Jury, whereupon the Court ordered the Jury brought in and made its ruling in presence of the Jury.

The Court:
I overrule the motion to direct a verdict in favor of the defendants.

Mr. Dufour:
Counsel for the defendants excepts, reserves a bill, and asks leave to attach all the evidence thereto.

The case was then argued before the Jury.

The Court:
I will give my charge to the Jury tomorrow at noon.

Tuesday, May 5th, 1925.

Offer: Mr. Dufour: If your Honor, please, we offer in evidence, the certified copies of the warrants that have been testified to and identified by the witnesses. We were under the impression they had been offered already, but as a matter of precaution we desire to offer them now.

The Court:
This is a warrant and two affidavits.

Mr. Dufour:
Two affidavits and a warrant.

1158 The Court:
I will permit the filing of that evidence at this time even though it be after argument, in view of the fact that the warrants and affidavits, I understand, were referred to in the testimony.

1159 BILL OF EXCEPTIONS NOS. 2 TO 8, BOTH INCLUSIVE.

Filed .....

(Title Omitted.)

Bill of Exception No. 2.

Be it remembered, that on the trial of this cause, to-wit, on the 20th day of April, 1925, and subsequent days, before the Court and a jury, the plaintiff was called and produced as a witness in her own behalf, and was sworn as a witness, in the presence of the jury, and on the examination in chief of said witness she was interrogated as to a certain statement claimed by her to have been made by one Bob Carson, to her or in her presence and hearing, and the following questions were propounded to her as a witness, and the following proceedings took place:

1160 Examination by Counsel for Plaintiff:

Q. Don't answer anything that Carson said. Where was Carson at the time you spoke to him or where he made the statement to you.

A. He was inside, right at the big gate of my property.

Q. Was that during the time of the shooting?

A. Absolutely, just at the same time that they were all coming in and just as the shooting stopped. John Whittington tried to killed my brother-in-law, Jim Williams.

Q. Was that at the time there was general excitement due to the shooting?

A. Yes. Just—well, it was all at the same time.

Mr. Higgins:

If your Honor please, I believe I have laid the foundation for that statement.

Mr. Dufour:

If your Honor please, this witness was necessarily here during this trial and heard what the other witnesses said, which fixes this testimony at five minutes after. They were evidently together because they came from the same scene and went in the adjoining house. I submit it is not part of the res gestae.

The Court:

I had better let the evidence in, this is all so closely connected. I can't determine the credibility of the witnesses. It is exclusively for the jury, if there be any contradiction between them.

Mr. Dufour:

We reserve a bill.

Q. What statement did he make at the time, Mrs. Williams?

Objection: Mr. Miller:

The same objection is made as to Mrs. Melancon. At all events, we have the right to more definitely fix the time.

The Court:

You mean you want to examine her on the time?

By Mr. Miller:

Q. Mrs. Williams, you had been down to your father's house, and saw this trouble between John Whittington and Jim Williams which you testified to happened?

A. It was at the property of Mr. Williams, my father in law.

The Court:

Louder, please.

1161 Q. I was just asking you if you had not been to your father's house at the time it happened?

A. Wasn't really at my father's house, it was just across, back of the building which adjoins.

Q. You were with Mrs. Melancon and your sister-in-law?

A. No, they come to me when I was hollering for mercy, when I saw these men murdering those men.

Q. I am not asking you about that. I am just trying to fix the time. You don't have to tell it all over again. Now, did you leave there with Mrs. Melancon?

A. Sir?

Q. Did you and Mrs. Melamcon come from there to your place together?

A. We was coming up to see what they were going to do with Mr. Jim Williams.

Q. Were you together when you came away and heard Mr. Carson make this statement?

A. We was at the gate.

Mr. Miller:

Well, I submit to the Court—

The Court:

Just go ahead and find out. She has made it just at the time of the shooting.

By Mr. Dufour:

Q. You heard Mrs. Melancon say that most of the crowd had left when this statement was made?

A. What Mrs. Melancon said has absolutely nothing to do with what I heard.

Q. Did you see Mr. O'Rourke at that time being taken away?

A. I seen the people coming with Mr. O'Rourke, and he was bleeding and shot in the chest.

Q. Where did you see him?

A. He was coming out of the gate with that other man.

Q. So when you spoke to Carson they were bringing O'Rourke out?

A. I didn't exactly speak to Mr. Carson myself, but they were bringing O'Rourke out.

Q. When that happened they were already bringing O'Rourke out?

1162 A. Sir?

Q. When this conversation with Carson took place, they were already bringing O'Rourke out?

A. Well, he didn't stay there so very long after.

Q. But he got out of the window, he was killed just about this time?

A. He wasn't killed?

Q. And some of the officers had gone to get him, and they were taking him out to the front gate to the automobile?

A. I didn't see any officers there at all.

Q. Well, some men were?

A. Some of the gunmen.

Q. How many of those gunmen as you call them—

A. Gunmen they sure was.

Q. So when this conversation with Carson took place, O'Rourke was being taken to the hospital?

A. I was coming in they was with him.

Q. And that was after you had left the house and gone as far as they said, you don't believe?

A. I don't want any "you don't believe." I beg your pardon.

Q. By your statement, you don't believe—

A. No, sir, I told you it wasn't as much as they said.

Q. It was as much?

A. I said it was not as much.

Q. I thought you said it was as much. It wasn't as much, you don't believe?

A. No, sir.

Q. Then this conversation took place after you were in your father's house, and you came back and you saw them bringing out O'Rourke, and that is the time Carson is supposed to have said this?

A. Yes, sir.

Mr. Dufour:

I submit, if your Honor please, it is not part of the res gestae.

By Mr. Higgins:

Where was Carson at the time you heard him make this statement?

A. Inside of this gate there, at my big gate
1163 that leads into my property.

Q. He was standing on your property?

A. Yes, sir.

Q. And had all of this shooting stopped at that time?

A. Just about, yes, sir, because they had killed Mr. Williams, one of the men had killed Mr. Williams, and after they killed Mr. Williams they were all shooting and there was great excitement, and I ran to the front hollering for mercy, and while I was there I looked at the window and I saw my brother-in-law, he was standing at the window, and I saw Johnny Whittington was going to shoot him through the gate, through the

small gate, and I just run out of this big gate to get to that gate, and when he aimed to shoot Mr. Jim Williams, I threw the gun off and saved him, and when he tried it again my sister-in-law begged and prayed for his life, and he shoved her against the tree and he says "Dam you, old woman, if you don't get inside we will do you all the same as we done these men." Then we came back to Mr. Williams' place, Bob Carson was there with his gun, and that is the statement he made.

By the Court:

How long was that after the last shot was fired?

A. Well, Judge, it wasn't so very long, because Johnny Whittington had just shot at Mr. Jim Williams when Mr. Jim Williams had his hands up, like that (witness illustrating).

Q. How long would you say it was?

A. Well, I would say maybe ten minutes, because it was done quick. It wasn't over ten or fifteen minutes, I don't suppose.

Q. Was it in the yard of your husband's property, or outside of the yard?

A. Right at the gate, at the gate of my husband's property.

Q. How far from the office where your husband was shot?

A. You mean from the gate?

Q. No, where you met Bob Carson, where you and Bob Carson were standing, to the office where your husband was shot?

A. Well, it wouldn't be further than this Court room. (Witness indicates).

Q. Where were the balance of the crowd that had entered that yard?

1164 A. There were some in the yard, some in the street—they were just all around at the time.

The Court:
I am going to let the witness state what he said.

Mr. Dufour:
We reserve a bill.

Mr. Higgins:
What did he say, Mrs. Williams?
A. He said they had come to kill Lem Williams, and they had killed him.
Q. By whom was Carson employed, do you know?
A. The Great Southern Lumber Company.
Q. Now, don't answer the question till these gentlemen have a chance to object. What was Bob Carson's reputation for peace and quiet?

Mr. Dufour:
We object.

The Court:
I overrule the objection.

Mr. Dufour:
We reserve a bill.

1165 Whereupon, Counsel for the defendant then and there in open Court and in the presence of the jury and before the jury had retired to deliberate, duly excepted to the ruling of the Court admitting the testimony of the witness as above shown, and reserved this its Bill of Exception, and the same was duly noted

to the end that the matter thereof might be placed of record, and the same was accordingly settled and signed nunc pro tunc as of date the 20th day of April, 1925.

(Signed) BEN C. DAWKINS,
United States Judge.

May 28th, 1926.

Statement of fact approved.
All legal rights reserved.
(Sgd.) A. T. HIGGINS, Atty.

1166 BILL OF EXCEPTION NO. 3.

(Title Omitted.)

Be it remembered, that on the trial of this cause, to-wit, on the 24th day of April, 1925, and subsequent days, before the Court and a jury, the defendants, to sustain the issue on their part, caused a witness in their behalf, Charles Flournoy, to be sworn, in the presence of the jury, and on the examination in chief of said witness, propounded to him the following questions, and the following proceedings took place:

1167 Q. Where did you see Sol Dacus?
A. I saw him on Fourth Street, in Jew Town.
Q. Was anybody else with him?
A. There was.
Q. Who was?
A. Two men.
Q. Do you know who they were?
A. Mr. O'Rourke and Mr. Bouchillon.

Q. What were they doing?
A. They were walking along the side of Sol Dacus—

Objection: Mr. Higgins:
I want to object to that evidence as being immaterial. What have O'Rourke and Bouchillon got to do—walking along the side of the road with Sol Dacus—with the case of Lem Williams?

Mr. Dufour:
The purpose of the evidence is—The answer sets up that Sol Dacus was walking along the street with Bouchillon and O'Rourke, both of whom were armed with shot guns, and they were making certain defiant remarks, and from there they went to the place of Lem Williams. The answer also sets up that the purpose of these men in going to Lem Williams' place of business was to arrest Sol Dacus, Bouchillon and O'Rourke for a violation of the public peace, that warrants had been issued for them; and now we are proving the circumstances under which that happened.

The Court:
I don't think you would have to show the offense if you show the warrants.

(Here follows argument.)

The Court:
You will have to show the affidavits and the issuing of the warrants, and that they were there in the
1168 execution of that warrant. I don't think the circumstances that led up to it, not connected with Williams, is evidence.

Mr. Dufour:

This was about an hour before the occurrence. It certainly would be competent to show existing conditions in Bogalusa for months previous to that, to meet the testimony of Mr. Rowan.

The Court:

I don't see the relevancy.

Mr. Dufour:

We except to your Honor's ruling and reserve a bill.

Q. Where was Dacus going at the time you saw him?

A. In which way was he traveling?

Q. Yes.

A. He was traveling first—he was traveling west—then he went north—and then he went northeast.

Q. Where did you lose sight of him?

A. Just as he turned east; just as he stepped off the sidewalk at Lem Williams' property.

Q. Did you see him go in there?

A. I saw him step off the sidewalk into this property of Lem Williams'.

Q. Who was with him?

A. Those two white men that had those guns in their hands, Mr. O'Rourke and Mr. Bouchillon.

Q. Did you make any report of that occurrence?

A. I did.

Q. To whom?

A. To the Chief of Police.

Q. Who was the Chief of Police?

A. T. A. Magee.

Q. What remarks, if any, were made by any, or all of these men as they went down the street?

1169 Objection: Mr. Higgins:

I object on the ground that it is perfectly

irrelevant, and cannot, in any way, shape or form, bind Lem Williams; any statements made by Sol Dacus, O'Rourke or Bouchillon.

Mr. Dufour:

If your Honor please, we have got them in Lem Williams' office on the morning of the occurrence. I submit the circumstances under which they went there and the fact that they had guns in their hands in going in there is relevant to the issue of this case.

The Court:

Whatever the remarks are involved in this case I can see no relevancy in. I sustain the objection as to the remarks. I will permit you to show, or rather I will rule on it when the time comes, but my present impression is to permit you to show that Bouchillon and O'Rourke went into this office armed, because during that time—because that is a question that has been brought out in the case.

Mr. Dufour:

I except and reserve a bill.

Q. What time of day was that?

A. Between 11:00 and 12:00, to the best of my recollection.

Q. Did O'Rourke and Bouchillon have anything in their hands?

A. They had shot guns. Each one of them had a shot gun in his hand.

Q. I understood you to say that you reported that incident to the Chief of Police?

A. I reported, at once, to the Chief, what I had seen and heard.

Q. Did you know whether or not, at that
1170 time, any warrant was out for the arrest of these men?

A. Yes, sir.

Q. For whom?

A. For Sol Dacus.

Q. From whom had you gotten that information?

A. I had gotten it, indirectly, from the office, not directly.

Q. Why didn't you arrest Dacus at that time?

A. Well, I didn't feel disposed to take that chance with my life, considering the way they talked, the language they were using when I met them; they defied anybody to touch Dacus, that is the reason I didn't.

Objection: Mr. Higgins:

I object to that.

Mr. Dufour:

I submit that is the explanation of why this officer didn't arrest those men for whom he knew there was a warrant outstanding.

The Court:

It is not shown that this witness had a warrant for Dacus' arrest. Why he didn't arrest Dacus or not is immaterial. I sustain the objection.

Mr. Dufour:

I reserve a bill.

1171 Whereupon, counsel for the defendant, then and there, in open Court and in the presence of the jury, and before the jury had retired to deliberate, duly excepted to the ruling of the Court excluding the

testimony of said witness as above shown, and reserved this, its Bill of Exception, and the same was duly noted to the end that the matter might be placed of record and the same was accordingly settled and signed nunc pro tunc as of date, the 24th day of April, 1925.

(Signed) BEN C. DAWKINS,
United States Judge.

May 28th, 1926.

Statement of facts approved.
All legal rights reserved.
(Sgd.) A. T. HIGGINS, Atty.

5/26/26.

1172 BILL OF EXCEPTION NO. 4.

(Title Omitted.)

Be it remembered, that on the trial of this cause, to-wit, on the 24th day of April, 1925, and subsequent days, before the Court and a jury, the defendants, to sustain the issue on their part, caused a witness in their behalf, Charles Flournoy, to be sworn, in the presence of the jury, and on the examination in chief of said witness, propounded to him the following questions, and the following proceedings took place:

1173 Q. Do you recall the arrest of Tom Ezell, some weeks before this occurrence?

Objection: Mr. Higgins:
I object on the ground that it is immaterial.

Mr. Dufour:

We propose to show that this man was arrested and that the deceased Lem Williams challenged the officers who were arresting him—

Mr. Higgins:

If your Honor please, I object to all of these statements made in the presence of the jury.

(Jury withdrawn.)

Mr. Dufour:

It is in evidence here that Lem Williams was a peaceful and law abiding citizen, who was shot down in cold blood by these defendants; that testimony has been introduced. We propose to show by this witness that, on a number of occasions, including the one I am referring to, Lem Williams accosted the officers who made the arrest, abused them, threatened them, threatened to burn down the jail and deliver the prisoner and do bodily injury to the officers. Now that is admissible, first, to meet the suggestion that this was a peaceful man who was shot down in cold blood, without any provocation whatsoever, and, secondly, to meet the evidence that was introduced that he was a law abiding citizen of good character. The further purpose of this evidence is to show the condition of tyranny that existed in Bogalusa; that the officers of the law were powerless or cowed by the acts of Lem Williams and his associates, and that they carried them so far as to interfere with officers in the dis-
1174 charge of their duty and threatened them, threatened to bomb the jail and make delivery of the prisoners if their will was not recognized as superior to the law itself.

(Here follows argument.)

The Court:

I cannot see the relevancy of anything he may have done at any other time. The evidence as to Williams' reputation cannot be rebutted, as I understand, by evidence of specific offenses, so it is not evidence in rebuttal of his general reputation and it is not evidence relevant to the general issue, because, really, it would make no difference what he had done at any other time if they wrongfully killed him at that time.

Mr. Miller:

The charge is made that these people killed him, and it is charged there were a great many of them, more than ordinarily necessary for the making of an arrest of one, or two, or three men. That is an incident that plaintiff relies on as showing that this was done by a mob or in pursuance of a conspiracy. We wanted to show why it was that this number of men went, and why it was necessary that that number of men should go there for the purpose of executing a warrant which had been placed in the hands of the officers of the law. I presume what they are attempting to reason against is that they went with a mob or crowd, which was unnecessary for the simple purpose of executing a warrant of arrest against somebody. We want to show by this officer why it was necessary to go there the way we did.

1175 The Court:

I will pass on that when I get to that, but this evidence is not admissible. I sustain the objection.

Mr. Dufour:

And I reserve a bill.

Mr. Dufour:

I will ask the stenographer to take this, I want to state that our purpose in offering this testimony is to show conditions existing in Bogalusa at the time of this killing, and several months prior thereto; to show how the deceased, Lem Williams had frequently, during the period referred to, resisted the officers of the law, interfered with them in the discharge of their duties, attempted to make jail deliveries and threatened to storm the jail if the prisoners were not released, and that, therefore, because of these conditions, known to the public authorities, on the day in question, for the purpose, presumably of enforcing the law, called in a squad of special officers to assist in making this arrest.

Mr. Talley:

If the Court please, in addition to that, on behalf of the individual defendants, we propose to show by this certain testimony, in answer to those allegations where they are charged with having murdered Lem Williams in cold blood, and where it says that they were members of a mob that assembled without cause, and where it is said that there was no occasion for blowing a whistle.

(Jury brought back.)

The Court:

I will exclude that evidence. I sustain the objection to the question asked, for reasons stated.

Mr. Dufour:

We reserve a bill.

1176 Q. At, or about, or shortly before the day of this killing, were you interfered with, in the discharge of your duties, by Lem Williams?

Objection: Mr. Higgins:
Your Honor, please, I think this is leading the witness.

The Court:
Well, that question has been ruled out.

Mr. Higgins:
Sure it has been ruled out, but I object on the further ground that it be ruled out.

Mr. Dufour:
Will your Honor rule on that objection?

The Court:
I sustain the objection for the reasons given in regard to previous questions.

Mr. Dufour:
I reserve a bill.

1177 Whereupon, counsel for the defendant, then and there, in open Court and in the presence of the jury, and before the jury had retired to deliberate, duly excepted to the ruling of the Court excluding the testimony of said witness as above shown, and reserved this, its Bill of Exception, and the same was duly noted to the end that the matter might be placed of record and the same was accordingly settled and signed nunc pro tunc as of date, the 24th day of April, 1925.

(Signed) BEN C. DAWKINS,
United States Judge.

May 28th, 1926.

Statement of facts approved. All legal rights reserved.
(Sgd.) A. T. HIGGINS,
Atty.

5/26/26.

1178 BILL OF EXCEPTION No. 5.

(Title Omitted.)

Be it remembered, that on the trial of this cause, to-wit, on the 24th day of April, 1925, and subsequent days, before the Court and a jury, the defendants, to sustain the issue on their part, caused a witness in their behalf, Charles Flournoy, to be sworn, in the presence of the jury, and on the examination in chief of said witness, propounded to him the following questions, and the following proceedings took place:

1179 Q. Who was in the crowd?

Objection: Mr. Higgins:
We object on the ground that it is irrelevant, besides, you cannot prove character and reputation by specific acts.

The Court:
I sustain the objection.

Mr. Dufour:
We reserve a bill.

Q. Was Lem Williams in the crowd?

Objection: Mr. Higgins:
The same objection.

The Court:
The same ruling.

Mr. Dufour:
We reserve a bill.

Q. Who appeared to be the leader of the crowd?

Objection: Mr. Higgins:
The same objection, and I object on the further ground that it is merely an opinion of the witness.

The Court:
I sustain the objection.

Mr. Dufour:
We reserve a bill.

Q. Who was the leader of the mob?

Objection: Mr. Higgins:
The same objection.

The Court:
The same ruling.

Mr. Dufour:
We reserve a bill.

1180 Whereupon, counsel for the defendant, then and there, in open Court and in the presence of the jury, and before the jury had retired to deliberate, duly excepted to the ruling of the Court excluding the testimony of said witness as above shown, and reserved

this, its Bill of Exception, and the same was duly noted to the end that the matter might be placed of record and the same was accordingly settled and signed nunc pro tunc as of date, the 24th day of April, 1925.

(Signed) BEN C. DAWKINS,
United States Judge.

May 28th, 1926.

Statement of facts approved. All legal rights reserved.
(Sgd.) A. T. HIGGINS,
Atty.

5/26/26.

1181 BILL OF EXCEPTION No. 6.

(Title Omitted.)

Be it remembered, that on the trial of this cause, to-wit, on the 24th day of April, 1925, and subsequent days, before the Court and a jury, the defendants, to sustain the issue on their part, caused a witness in their behalf, Charles Flournoy, to be sworn, in the presence of the jury, and on re-direct examination of said witness, propounded to him the following questions, and the following proceedings took place:

1182 Q. You were asked, on cross-examination, if a breach of peace was committed in your presence by Bouchillon and O'Rourke on the day in question.

Objection: Mr. Higgins:
I object to any leading questions.

Mr. Dufour:
I am stating your question.

Q. How did you answer that question?
A. I said that there was.
Q. Well, now, state what the breach of peace was.

Objection: Mr. Higgins.
I object to what anybody said. It is purely hearsay testimony.

Mr. Dufour:
Counsel brought out that there was a breach of the peace committed in his presence.

The Court:
I rule that out on the ground that it is inadmissible and immaterial and cannot be gotten in in this way.

Mr. Dufour:
If your Honor please, it has gone to the jury that there was a breach of peace; it was brought out on cross-examination, and I think it is competent to prove what the breach of peace was.

The Court:
It is for the purpose of having the witness to state what O'Rourke and Bouchillon said at the time they were walking up the street with Dacus; that is the evidence that I have ruled out as irrelevant and immaterial, and I will rule this out.

Q. Were these men, on this occasion—state whether or not these men, O'Rourke, Bouchillon and Dacus, on this occasion, were defying you in the exercise
1183 of your authority?

Objection: Mr. Higgins:

I object to that as a leading question, putting the words in the witness' mouth.

The Court:

It is the same question that I have ruled out as immaterial to the question of the killing of Lem Williams, which took place at another time and place and some distance away. I sustain the objection.

Mr. Dufour:

I reserve a bill.

1184 Whereupon, counsel for the defendant, then and there, in open Court and in the presence of the jury, and before the jury had retired to deliberate, duly excepted to the ruling of the Court excluding the testimony of said witness as above shown, and reserved this, its Bill of Exception, and the same was duly noted to the end that the matter might be placed of record and the same was accordingly settled and signed nunc pro tunc as of date, the 24th day of April, 1925.

(Signed) BEN C. DAWKINS,
United States Judge.

May 28th, 1926.

Statement of facts approved. All legal rights reserved.

(Sgd.) A. T. HIGGINS,
Atty.

5/26/26.

1185 BILL OF EXCEPTION No. 7.

(Title Omitted.)

Be it remembered, that on the trial of this cause to-wit, on the 24th and 27th days of April, 1925, and subsequent days, before the Court and a jury, the defendants, to sustain the issue on their part, caused a witness in their behalf, Abner Magee, to be sworn, in the presence of the jury, and on the direct examination of said witness, propounded to him the following questions, and the following proceedings took place:

1186 Q. What did you do after you received a warrant for Bouchillon and O'Rourke, on the 22nd?

A. Immediately after I received the warrant I telephoned to Mr. J. B. Lindsley.

Q. Is that the Mr. J. B. Lindsley, one of the defendants, who sits in Court?

A. He was Commissioner of Public Safety.

Q. He was what?

A. He was Commissioner of Public Safety.

Q. Of the City of Bogalusa?

A. Yes.

Q. Was he a member of the Commission Council?

A. He was.

Q. Are you in his department, or were you in his department?

A. Yes, sir.

Q. You say you telephoned for him?

A. I asked him to come over to my office immediately, I wanted to see him on very important business.

Q. Did he come?

A. He did. He came to my office in company with Mr. Jules LeBlanc.

Q. What did you tell him?

A. I told him that we had a warrant for Sol Dacus' arrest, and we had him located.

Q. Did you mention Bouchillon and O'Rourke warrants too?

A. Yes, sir, Bouchillon and O'Rourke. I told him I wanted him to go down and arrest these men. We talked it over and we decided that we had better call the special officers in order to avoid any serious trouble, because we knew if we didn't go down there with a sufficient number of men—

Objection: Mr. Higgins:

I object to the opinion of the witness.

Mr. Dufour:

It shows his motive; did he go down for peace or did he go down for murder?

1187 Q. Why did you think it was necessary—

Objection: Mr. Higgins:

Wait a minute, I object as calling for the opinion of the witness.

The Court:

I think the witness can state the reason that he may have had for calling others to go down there.

A. Because of the threats Lem Williams had made before.

Objection: Mr. Higgins:

Now, if your Honor please, there you are again. I move that the answer be stricken out and the jury instructed to disregard it.

Mr. Dufour:

He is the Chief Officer of the city. He is presumed, under the law, to be doing his duty in this case. There is no charge against him of participating in this murder. In this petition there is no charge of murder against him; on the contrary, he is extolled. It is said that the Chief of Police had nothing to do with this.

(Here follows argument.)

(Jury withdrawn.)

Mr. Dufour:

Here is the specific charge. "That said company had no excuse and no authority to employ this bunch of man killers on the pretext of observing and maintaining law and order, because Bogalusa, whose Mayor is the General Manager or an Agent of the Company, had its Chief of Police, and a large force to assist the Chief of Police, and the Sheriff of Washington Parish had given him six or seven deputies, sworn in and acting as Deputy Sheriffs, who were not called upon to act, in any manner, on that day, or at any other time, and that there
1188 was no threatened breach of peace; in fact, the Chief of Police and the Deputy Sheriffs in this town did not participate in this foul murder." Now, what we wish to produce is that the Chief of Police, who says, "I received a report from one of my subordinates that two men were walking down the street, with shot guns, with a negro between them, saying, 'We would like to see any white S—— B—— who will come and take this man' or 'We would like to see the eye of any white S—— B—— who will touch this man'"—

Mr. Higgins:

You have not produced a scrap of evidence testifying to that.

Mr. Dufour:

Now, that is the breach of peace that was reported to the Chief of Police. The Chief of Police, in the exercise of his duty, causes warrants to be sworn out against these men and calls a special police officer, because he only has three men available. He calls in the Commissioner of Public Safety and special police officers to go and execute these warrants. We will prove by the Commissioner of Public Safety why he himself went. We want to show by the Chief of Police that, fearing trouble, because of the threats of Williams and others, and the acts that been going on, he and the Commissioner of Public Safety had agreed that he and the Commissioner of Public Safety would call on sworn police officers to come to his assistance, and that is what we are trying to prove. We are also trying to prove that the whistle which was blown was blown by prearrangement of the Chief of Police and the Commissioner of Public
1189 Safety with the company. It was the only alarm in the city, and these public officers went to the company and said, "When we need special policemen to assist us in these troublesome times, we would like for you to give the only alarm that can be given in this community, and that is the blowing of that whistle.

The Court:

The specific question up now is whether or not the witness will be allowed to state whether Lem Williams made any threats. In other words, I have permitted the witness to say, by reason of conditions prevailing, he felt, or he thought it was necessary to send a number of officers down there. He has already stated that. I don't think that evidence is admissible except for the purpose of showing that he had information such as made him, as a public officer, deem it necessary to send a body of men. Whatever threats Williams may have made before

would have nothing to do with it; if he did nothing at the time, that would not justify the killing.

Mr. Miller:

I understand your Honor goes far enough to say that the Chief of Police will be permitted to say that, on account of existing conditions, he felt it proper to send these special officers down instead of the regular police officers. Does your Honor permit us to go further and show why it was that the Chief of Police thought so, not merely to let it stand on its bare, bald statement that he thought it necessary, but to show why he thought it was necessary.

The Court:

I don't think the jury are entitled to know why to the extent that it might prejudice them against Williams, if it is not a defence to his killing. I don't
1190 think the evidence is admissible except for the purpose of letting this man state, as an official, the conditions existing and the reports that came to him made him deem it necessary to summons these men to him. Now, what they did after they got there is another question. I will sustain the objection as to the threats of Lem Williams. You understand, Mr. Magee, you are not to state any specific acts or threats but just state that, from conditions, or reports made by your subordinates, you thought it necessary to send a body of men.

(Jury brought back.)

By Mr. Dufour:

Q. Why did you think it necessary—

The Court:

The witness made some reference to threats of Lem Williams, and I am going to direct you to disregard that, and I am going to strike it out.

Q. Why did you think it necessary to turn these warrants for Dacus, Bouchillon and O'Rourke over to the Commissioner of Public Safety and special policemen for execution?

A. Well, because I thought with conditions as they were that it would be best to turn them over to the special officers.

Q. What conditions do you have reference to?

A. Well, the trouble, and so forth, that we had had around there for some time.

Q. Was that state of mind based upon your experience?

A. Yes, sir.

Q. Was there any reports made from your subordinates, during that period, which reported that state of affairs—state of mind?

A. Yes, sir, there was, from Mr. Flournoy.

1191 Q. The conditions which you speak of, when you speak of these conditions, do you have reference to conditions that morning or general conditions?

A. General conditions as existing for some time back.

Q. How long back had these conditions existed?

A. Why for a few months.

Q. A few months?

A. Yes, sir.

At this point the further taking of testimony was adjourned until Monday morning, April 27th, 1925, at 11:00 o'clock.

Monday, April 27th, 1925.

T. Abner Magee was called for further examination:

By Mr. Dufour:

Q. Chief, on your examination on Friday, you stated that Patrolman Flournoy had reported to you on the morning, shortly before noon, on November 22nd, 1919, of the doings of O'Rourke, Bouchillon and Dacus on Columbia Road; did you receive any information of those acts from any other sources?

A. I did.

Q. From whom?

A. Mr. O. J. Sherman.

Q. Who is he?

A. The Chief of the Fire Department, and Jimmy Blanch.

Q. Who is he?

A. He is—he was in the restaurant business at that time; and several other citizens down there.

Q. Do you recall their names?

A. Mr. Greenburg and Mr. Goldman, and I don't know how many more, a bunch of people.

Q. Did these citizens report to you any
1192 breach of the public peace by Bouchillon, O'Rourke and Dacus, on that occasion?

A. They did. They said he was walking up—

Objection: Mr. Higgins:

I make the same objection as I made to the other testimony.

The Court:

Well, my ruling was that he could testify to any official acts and any other facts that he himself personally knew, and that made it, in his opinion as an official,

advisable to send other men, besides the man holding the warrant to be executed. I don't know whether it is intended to go beyond that ruling or not.

(Jury withdrawn.)

Mr. Dufour:

I wish the stenographer to take this. We tender to prove by this witness that, from his subordinates, as well as from citizens of the community, reports came to him in his official capacity, reports of a menacing nature, not only tending to show that he committed a breach of the public peace, that a breach of the public peace was then being committed, but reports to show that force, if necessary force of arms, would be used to resist the officers in the execution of the warrant which they, at that time, had for the arrest of Sol Dacus.

The Court:

My ruling has been and, as far as I can see I think it is correct, that this witness, who is not one of the defendants but was the Chief of Police, will be permitted to testify that there was a condition, known to him personally or of which he had received reports,
1193 which would, in his judgment as an official, make it necessary for him to send for the execution of the warrant more than one, or more than two or as many as he thought it was necessary for the execution of the warrant. So far as the individual defendants are concerned, it seems to me it is entirely irrelevant as to them as to anything other than that they were called upon as special officers, if they were special officers, to assist the regular officers in the execution of the warrant, and I don't think it is relevant to prove any specific acts by any parties like

O'Rourke, Bouchillon and others who are not parties to this suit. I have permitted, and will permit, this witness to testify, without stating what the facts were or what the reports were, that he had received such reports, either from his subordinates, or even from citizens as made it, in his judgment, advisable to call upon special officers to assist the regular officers in the execution of the warrant.

Mr. Dufour:

We reserve a bill of exceptions to the ruling of the Court.

1194 Whereupon, counsel for the defendant, then and there, in open Court and in the presence of the jury, and before the jury had retired to deliberate, duly excepted to the ruling of the Court excluding the testimony of said witness as above shown, and reserved this, its Bill of Exception, and the same was duly noted to the end that the matter might be placed of record and the same was accordingly settled and signed nunc pro tunc as of date the 24th and 27th day of April, 1925.

(Signed) BEN C. DAWKINS,
United States Judge.

May 28th, 1926.

Statement of facts approved. All legal rights reserved.

(Sgd.) A. T. HIGGINS,
Atty.

5/26/26.

1195 BILL OF EXCEPTION No. 8.

(Title Omitted.)

Be it remembered, that on the trial of this cause, to-wit, on the 27th day of April, 1925, and subsequent days, before the Court and a jury, the defendants, to sustain the issue on their part, caused a witness in their behalf, Abner Magee, to be sworn, in the presence of the jury, and on the direct examination of said witness, propounded to him the following questions, and the following proceedings took place:

1196 Q. What was the nature of the offense with which the prisoners were charged whom the crowd attempted to deliver on that occasion?

Objection: Mr. Higgins:
Objected to as irrelevant and immaterial, and secondly that it is another attempt to get in specific facts.

The Court:
I think that is irrelevant and sustain the objection.

Mr. Dufour:
I reserve a bill.

Q. Now, don't answer this question. Was Lem Williams in this crowd that attempted to make this jail delivery?

Objection: Mr. Higgins:
I object on the ground that it is an attempt to prove general reputation by specific facts; also, that it is immaterial and irrelevant.

Mr. Dufour:

I will state that the evidence is not offered for that purpose, but it is offered to show conditions that existed in Bogalusa back at this period and, therefore, to show that the motive and purpose the public officers and the special officers had on this occasion was only to enforce the execution of the law.

The Court:

This was several weeks or a month before. I think it is irrelevant.

Mr. Dufour:

We reserve a bill.

1197 Whereupon, counsel for the defendant, then and there, in open Court and in the presence of the jury, and before the jury had retired to deliberate, duly excepted to the ruling of the Court excluding the testimony of said witness as above shown, and reserved this, its Bill of Exception, and the same was duly noted to the end that the matter thereof might be placed of record and the same was accordingly settled and signed nunc pro tunc as of date the 27th day of April, 1925.

(Signed) BEN C. DAWKINS,
United States Judge.

May 28th, 1926.

Statement of facts approved. All legal rights reserved.

(Sgd.) A. T. HIGGINS,
Atty.

5/26/26.

1198 STIPULATION OF COUNSEL TO TRANSMIT CERTAIN DOCUMENTS IN THE ORIGINAL.

Filed Jun. 29, 1926.

(Title Omitted.)

Stipulation.

In this cause it is agreed that the Clerk shall certify and transmit to the Clerk of the United States Circuit Court of Appeals for the inspection of the Court on the writ of error taken in this cause by Great Southern Lumber Company, the following original documents introduced in evidence on the trial of this case, to-wit:

Plaintiff's Exhibit P 1, sketch of Locus in quo.

Defendants Exhibit X, map and plan introduced by defendant.

(Signed) DUFOUR, GOLDBERG & KAMMER, and
EDWIN C. HOLLINS,
BEN MILLER,
Attorneys for Great Southern Lumber Company.

(Signed) A. T. HIGGINS,
One of Attorneys for Mrs. L. E. Williams.

1199 **PRAECIPE.**

Filed June 17, 1926.

(Title Omitted.)

Praecipe for Transcript of Record.

Mr. H. J. Carter,
Clerk, United States District Court,
New Orleans, Louisiana.

Dear Sir:

In making up the transcript of record on the writ of error sued out herein by Great Southern Lumber Company, please include the following documents, to-wit:

1. Plaintiff's petition.
2. Defendant's exceptions.
3. Plaintiff's supplemental and amended petition.
4. Process and return.
5. Defendant's exception.
6. Defendant's answer.
7. Plaintiff's motion to dismiss.
8. Plaintiff's rule to have case restored to the docket.
9. Defendant's answer to rule.

10. Plaintiff's second supplemental and amended petition with order making J. B. Lindsley, Harold H. Wilcox, Dave Bean, Louis Levert and Louis F. Guerre, parties defendant.

11. Exception of J. B. Lindsley, Harold H. Wilcox, Dave Bean, Louis Levert and Louis F. Guerre to plaintiff's second supplemental and amended petition.

12. Answer of Great Southern Lumber Company to plaintiff's second supplemental and amended petition.

13. Answer of Louis F. Guerre to plaintiff's original and plaintiff's first and plaintiff's supplemental and amended petition.

14. Answer of J. B. Lindsley, Harold H. Wilcox, Dave Bean and Louis Levert to plaintiff's original and plaintiff's first and plaintiff's second supplemental and amended petitions.

1200 15. Defendants' motion to elect.

16. Plaintiff's motion for subpoena duces tecum and order therefor.

17. Answer of Great Southern Lumber Company to plaintiff's subpoena duces tecum.

18. All Minute entries (omitting those granting continuances and those fixing exceptions for trial and the case for trial on the merits).

19. Charge of the Court to the Jury.

20. The verdict.

21. Defendants motion for new trial.

22. Opinion of Judge Darkins on motion for new trial.

23. Plaintiff's remittitur.

24. Plaintiff's third supplemental and amended petition with order granting plaintiff authority to amend original petition so as to set forth diversity of citizenship.

25. Motion to discontinue suit against certain defendants with order allowing same.

26. Judgment.

27. Motion and order granting defendants the right to file copies of documents and make same part of the record.

28. Petition for writ of error, and order allowing same.

29. Assignment of errors.

30. Supersedeas bond and order approving same.

31. Bill of Exceptions No. 1, including all testimony taken in open Court and all documents, made part of said Bill of Exception, including the following documents:

Plaintiff's Exhibit "P 1" sketch of Locus in quo.

"P 2" Letters of tutorship to plaintiff as Tutrix of John R. Williams.

"P 3" Marriage Certificate of plaintiff to L. E. Williams.

"P 4" Birth Certificate of John Earl Williams.

Defendants' Exhibit X, map and plan introduced by defendant.

Affidavit against Sol Dacus.

Warrant against Sol Dacus.

Affidavit against Bouchillon and O'Rourke.

Warrant against Bouchillon and O'Rourke.

1201 32. Bills of Exceptions Nos. 2 to 8 inclusive.

33. The Writ of error.

34. Citation in error.

35. Stipulation as to Exhibits in original.

36. This praecipe.

(Sgd.) DUFOUR, GOLDBERG & KAMMER, and
EDWIN C. HOLLINS,
(Sgd.) B. M. MILLER,
Attorneys for Great Southern Lumber Company.

1202 Clerk's Office:

I, HENRY J. CARTER, Clerk of the District Court of the United States for the Eastern District of Louisiana, New Orleans Division, do hereby certify that the foregoing 1201 pages contain and form a full, true, complete and perfect transcript of the record, assignment of errors and all proceedings in the matter entitled Mrs. L. E. Williams vs. Great Southern Lumber Company, Et Als., No. 16,377 of the Docket of this Court, as made up in accordance with the praecipe copied therein.

Witness my hand, and the seal of said Court, at the City of New Orleans, Louisiana, this 17th day of August, A. D. 1926.

H. J. CARTER, Clerk,
C. D. SHAW,
(Seal) Deputy Clerk.

Writ of Error and Citation omitted from the printed record, the originals thereof being on file in the office of the Clerk of the U. S. Circuit Court of Appeals.

* * * * * * * * *

Minute entry of argument and submission February 9, 1927, omitted in printing.

IN UNITED STATES CIRCUIT COURT OF APPEALS, FIFTH CIRCUIT

No. 4894

GREAT SOUTHERN LUMBER COMPANY, Plaintiff in Error,

versus

MRS. L. E. WILLIAMS, Defendant in Error

Error to the District Court of the United States for the Eastern District of Louisiana

H. Generes Dufour, Benj. M. Miller and Dolos R. Johnson, and Bascom D. Talley, for Plaintiff in Error.

Hiddleston Kenner, A. T. Higgins and Max M. Schaumburger, for Defendant in Error.

Before Walker, Bryan, and Grubb, Judges

OPINION—Filed February 17, 1927

GRUBB, District Judge:

This was an action for damages brought in the District Court by the Defendant in Error (as plaintiff) against the Plaintiff in Error (as defendant) arising out of the alleged unlawful killing of the husband of the plaintiff, and the father of her minor child, in whose behalf, she sued as tutrix. The deceased husband and father was killed on his own premises by a policeman of the City of Bogalusa, on November 22nd, 1919, under the following circumstances. The defendant had been for many years operating a sawmill in Bogalusa and employed in it some twenty-five hundred (2,500) men, white and black. Friction had arisen between the defendant and its employees some months before the deceased was killed. There was no strike in force but a shut down due to an accident to defendant's machinery had thrown the defendant's employees, except its millwrights, out of work; and they had been idle for some weeks

before deceased was killed. During this period, troubles had arisen between the workmen of defendant and itself and with the municipal authorities of Bogalusa. On one occasion, prospective employees of the defendant, arriving at the railroad station at Bogalusa had been forced by laborers to re-enter the train from which they had debarked and to leave Bogalusa. On another occasion, certain laborers had been put in jail, and a crowd of their sympathizers had threatened to effect a jail delivery. There had also been disorders at meetings of the Bogalusa City Commission at various times. Due to these occurrences additional paid policemen had been employed by the city, and a voluntary citizen police force had been organized and sworn in by the city, and had been actually called into service upon one or more occasions before the killing of the deceased. At the defendant's sawmill, there was a whistle used during the operation of the mill to notify its employees when quitting time had arrived. The Commissioner of Public Safety of Bogalusa had arranged with the Superintendent of the defendant that in case of disorder, and the need to call upon the voluntary police force to quell it, the whistle should be sounded to notify the voluntary police to assemble at the City Hall. The signal had been used for that purpose by the defendant's superintendent at the request of the municipal officers before the killing of deceased. On the day before the deceased was killed, a warrant for one Dacus, a negro, had been issued by the city on a charge that he was a dangerous and suspicious person. Dacus was not found at his home on the day the warrant issued. On the morning of the succeeding day, Dacus, in company with two labor sympathizers, both armed with shot guns, and with Dacus between them, walked down Columbia Street in Bogalusa in a public way, and were seen to enter the premises of Lem Williams, the deceased, who was the president of Trades Council. The Chief of Police of Bogalusa was notified by a policeman and by others that Dacus had been seen on the street in company with the labor leaders and had gone upon the premises of the deceased Williams with them. The Chief of Police then consulted with the Commissioner of Safety with reference to the situation and the expediency of summoning the special and voluntary police to help exe-

cute the warrant on Dacus, and also warrants, which were then issued for the two labor leaders. It was decided that it would be best to summon special officers to make the arrests. The special officers were to be summoned by the mill whistle and word was sent to the superintendent of the mill to that effect. The superintendent caused the whistle to be blown to notify the special officers to report at the City Hall. Upon their assembling there, together with one Magee, who was a paid officer of the city to whom the warrants were given for execution, they went in company with the Commissioner of Safety to the premises of the deceased for the purpose of making the arrest. There were about seventy-five (75) men in the party. The evidence was conflicting as to how many were employees of defendant. The superintendent of the defendant was there, but whether he was armed or not was in dispute. The facts as to what transpired after the party had arrived and while the warrants were being executed, were in conflict. The witnesses of the plaintiff testified that the deceased and others were killed by members of the party without warning or provocation. The witnesses of the defendant testified that the deceased Williams was notified that the purpose of the visit was to serve warrants on Dacus and the two labor leaders and that deceased was called upon to put down a pistol, which he had, and permit the arrest to be made, and that he refused to do so. That a shot was fired from the inside of the office, at the door of which the deceased was standing, and that it was then only that the arresting party fired, killing the deceased and others.

The foregoing is a mere outline of the voluminous evidence in the record, but sufficient in view of the disposition we make of the appeal.

The liability of the defendant depended upon whether (1) deceased was unlawfully killed and (2) if so, whether defendant was connected with and legally responsible for his death. The important questions presented by the twenty-three assignments of error relate to the second question. The theory relied upon by the plaintiff to connect the defendant with responsibility for the killing was twofold,—(1) that there had been formed a conspiracy between the defendant, its officers and agents and others who were strangers to it, to kill the deceased, because he was

objectionable to the defendant because of his labor activities, and that his death resulted from the conspiracy; or that the defendant had knowingly aided and abetted strangers to it in the unlawful killing with the same motive; and (2) that the presence of officers and employees of the defendant, armed and participating in making the arrest, at the place where the shooting occurred, made the defendant responsible upon the principle of respondeat superior, for the death of the deceased.

The questions presented by the assignments of error may be grouped and discussed as follows:—(1) Those relating to the amendments to the petition, made before and after verdict. (2) Rejection of evidence offered by the defendant as to what was said by O'Rourke and Bouchillon as they were walking along Columbia Street with Dacus on the morning of the day of the killing. (3) Permitting Mrs. L. E. Williams, the plaintiff, and other witnesses to testify that Bob Carson stated to them that they had come there to kill the deceased and that they had done it. (4) The refusal of the District Court to direct a verdict for the defendant.

(1)—The plaintiff after the lapse of more than a year from the date of the deceased's death, by leave of court, amended her petition. The contention of the defendant is that the amendment introduced a new cause of action, not contained in the original petition, and barred by the Louisiana prescription of one year. If the amendment is given the effect contended for by defendant the new cause of action would, under the jurisprudence of Louisiana, have been prescribed by the limitation of one year. The contention of the defendant is that the original petition contained no cause of action based on an unlawful conspiracy between defendant and others to kill deceased to remove him from defendant's path because of his labor activities. While the original complaint, as we construe it, set out the cause of action for unlawful conspiracy is too vague and uncertain terms to be good against exception, it did present though imperfectly such a cause of action together with one based upon the principle of respondeat superior. We conclude that the cause of action for unlawful conspiracy was not subject to prescription, at the time the amendment was filed.

After verdict and before judgment, the plaintiff further amended by striking out all the original defendants except the Great Southern Lumber Company. As the individual defendants, so stricken, were citizens of Louisiana, as was the plaintiff, this amendment was necessary to give the District Court jurisdiction. The right of the plaintiff in proper season to so amend as to preserve jurisdiction, is not questioned by defendant. It is contended that after verdict and after the individual defendants, so dismissed, had testified as witnesses for the corporate defendant, affected with the interest of co-defendants, it was too late to dismiss them as defendants. The conclusion reached by us makes a decision of this question unnecessary. Upon a subsequent trial, the individuals will not again appear before the jury as both wtnesses and defendants.

II.—An important issue on the trial was whether the party, a member of which killed deceased, went to his premises to enforce the law as peace officers by the arrest of offenders, whom they believed were there and against whom warrants were outstanding and in their possession, or whether they went there at the instance of defendants or its agents to unlawfully kill deceased to get rid of him. The defense of the defendant was predicated on a showing that the raid was in the interest of law enforcement, and the party or posse legally bent on serving the warrants with no ulterior motive. Clearly in aid of this defense, defendant was entitled to show that an occasion had arisen and still existed calling for the enforcement of the law by the serving of the warrants for Bouchillon, O'Rourke, and Dacus, and the need for a number of officers, instead of a single one, to safely accomplish the arrest. If there had been a defiance of the law shortly before by Bouchillon and O'Rourke by threatening to protect Dacus by violence against arrest, this was a fact tending to show an occasion requiring the exercise of force to uphold the law and by a posse rather than by a single officer. The trial judge permitted evidence tending to show that Bouchillon and O'Rourke paraded Columbia Street, armed and with Dacus between them, but the court refused to permit witnesses to testify to threats asserted to have been made by Bouchillon and O'Rourke to prevent Dacus' apprehension by vio-

lence if necessary, upon the ground that it was hearsay and immaterial. The issue was whether or not such threats had been in fact made, and the testimony of witnesses, who heard them made, is not hearsay. The making of the threatening statements, and not the truth of what had been said by the makers, was the inquiry. Permitting the defendant to show the parading of the street, while denying it the privilege of showing the unlawful character of the parade by the accompanying declarations of the paraders, was less than half a loaf. Plaintiff contended and the District Judge charged that Bouchillon and O'Rourke had the right to bear arms in the public street. The pertinent fact, therefore, was not that they had borne arms but their purpose in doing so. Crime or innocence was to be determined by their purpose. If they had no intent to defy the law and protect Dacus from it by violence, no crime was committed and no occasion for a posse to make the arrest existed. If their purpose was to intimidate the police by threats of violent protection of Dacus against arrest, then they were committing a crime and one which could only safely be met by the summoning of a posse. A posse was summoned, a member of it killed deceased, and defendant was sought to be held liable for his death upon the theory that the party was not a posse but an aggregation of strong armed gun men, assembled by defendant to unlawfully remove deceased. The relevancy of any declaration of Bouchillon and O'Rourke that might serve to illustrate the character of their march with Dacus, is clear, for it was the criminal character and not the march itself that would justify the issuing of warrants and the raising of a posse to execute them. The evidence rejected was neither hearsay or irrelevant. Its rejection was error, and the injury resulting to the defendant serious enough to require a reversal of the judgment.

III.—The court below, over the objection and exception of the defendant, permitted the plaintiff and others to testify that one Bob Carson, subsequently introduced as a witness for defendant, said to her in the presence of others that they (referring to the posse) had come there to kill her husband and had done it. The admission of this evidence is sought to be justified both as the statement of a conspirator against the defendant, a co-conspirator, and as a

res gestæ declaration of an agent binding on his principal. Carson had not been examined when the evidence was admitted and it was not offered to impeach him, but as an admission against interest of the defendant. We think the court erred in admitting this evidence. It was not the declaration of a co-conspirator. The record fails to establish any conspiracy between the defendant and Carson with reference to the deceased. Again, if there had been a conspiracy between them, the object of which was to kill deceased as charged, the conspiracy was ended by the death of deceased, before the statement asserted to have been made was made by Carson. All the shooting was over; the brother of deceased had already been rescued; and O'Rourke, who was wounded, was being put in a car to be taken to a hospital; Carson had been placed at the gate of the deceased's premises to keep order. The statement itself was not a verbal act. It was not made to carry out the conspiracy but was a mere narration of what had already been done and of its purpose. It was not part of the res gestæ. Carson was not even employed by the defendant. The evidence of the plaintiff to that effect shows on its face that she had no knowledge that would qualify her to testify to his employment. Carson and all other witnesses denied such employment. If Carson was not employed, his declaration, whenever made, would not be binding on the defendant. It was the hearsay of a stranger to defendant; made after the transaction, and narrative of it; and the court erred in admitting it.

IV.—The District Judge denied the request of defendant for a directed verdict. Upon a subsequent trial, the evidence may differ from that presented in this record, and it is unnecessary to pass upon its sufficiency to establish either or both of the grounds of liability, relied upon by plaintiff to connect the defendant with the killing of the deceased. We do not think the present record contains direct evidence of a conspiracy between the defendant through its agents and strangers to kill deceased. There is evidence tending to show that Guerre, the superintendent of the defendant, caused the whistle signal to be given, when requested by the city authorities, and that he was at the place of the shooting armed, when the shooting occurred; though

this was denied by him. An employer is liable for the wilful and criminal assault of an employe, committed while he is engaged in acts within his function or the scope of his authority; as. when protecting his employer's property from trespass or destruction. What the employe does that is beyond the subject matter committed to him by his employer, does not bind the employer. In this case, the evidence tended to show that Guerre was helping to arrest Dacus and the two labor leaders. No express authority to do so is shown to have been conferred upon him by the defendant. A previous course of conduct on defendant's part from which the authority for its superintendent to assist the police in making arrests could be inferred, would have to be shown. It would also have to appear that the authority was exercised for the benefit of the defendant, as distinguished from the duty of the citizen. If Guerre went to the premises of the deceased to help make the arrest and had been authorized by the defendant to make arrests in its interest, and knowingly aided and abetted in an unlawful killing of deceased, the defendant would be liable, but not otherwise.

For the reasons assigned the judgment is reversed, and the case remanded to the District Court for a new trial in conformity with the opinion.

Reversed and remanded.

IN UNITED STATES CIRCUIT COURT OF APPEALS

[Title omitted]

JUDGMENT—February 17, 1927

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Eastern District of Louisiana, and was argued by counsel;

On consideration whereof, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this cause be, and the same is hereby, reversed; and that this cause be, and it is hereby, remanded to the said District Court for a new trial in conformity with the opinion of this Court;

It is further ordered and adjudged that the defendant in error, Mrs. L. E. Williams, be condemned to pay the costs of this cause in this Court, for which execution may be issued out of the said District Court.

Petition for rehearing, covering 6 pages, filed March 9, 1927, omitted from this print. It was denied and nothing more by order March 30, 1927.

IN UNITED STATES CIRCUIT COURT OF APPEALS

[Title omitted]

ORDER DENYING REHEARING—March 30, 1927

It is ordered by the Court that the petition for rehearing filed in this cause, be, and the same is hereby, denied.

IN UNITED STATES CIRCUIT COURT OF APPEALS

[Title omitted]

MOTION TO STAY MANDATE AND ORDER ALLOWING SAME—Filed March 31, 1927

To the Honorables the Judges of said Court:

Comes now Mrs. L. E. Williams, defendant in error in the above stated case, and respectfully requests that the mandate in the above styled cause be stayed by the Court so as to enable her to prepare and present a petition for writ of certiorari to the Supreme Court of the United States.

This 31st day of March, A. D. 1927.

(Signed) A. T. Higgins & Max M. Schaumburger,
Attorneys for Defendant in Error.

Order

Considering the foregoing petition, it is ordered that the mandate of this Court be, and it is hereby withheld for a

period of 45 days from the date of this order,—to be issued at the expiration of that time unless the application of the defendant in error for a writ of certiorari shall then have been submitted to the U. S. Supreme Court.

March 31st, 1927.

(Signed) R. W. Walker, U. S. Circuit Judge.

Clerk's certificate to foregoing transcript omitted in printing.

SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed October 10, 1927

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

(8538)

MAY 14 1927
WM. R. STANSBURY
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1926.

No. [redacted] 252

27
36

MRS. L. E. WILLIAMS, INDIVIDUALLY AND AS NATURAL TUTRIX OF HER MINOR SON, JOHN EARL WILLIAMS,

Petitioner,

versus

GREAT SOUTHERN LUMBER COMPANY,

Respondent.

Petition for a Writ of Certiorari to the United States Circuit Court of Appeals, for the Fifth Circuit, and Brief in Support Thereof.

W. J. WAGUESPACK,
1406 Whitney Building,
New Orleans, La.;
A. T. HIGGINS,
MAX M. SCHAUMBURGER,
Attorneys for Petitioner.

MONTGOMERY-ANDREE PRINTING CO. INC., 807 CHARTRES, N. O.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1926.

NO.....

MRS. L. E. WILLIAMS, INDIVIDUALLY AND AS NATURAL TUTRIX OF HER MINOR SON, JOHN EARL WILLIAMS,

Petitioner,

versus

GREAT SOUTHERN LUMBER COMPANY,

Respondent.

Petition for a Writ of Certiorari to the United States Circuit Court of Appeals, for the Fifth Circuit.

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Your petitioner, MRS. L. E. WILLIAMS, a citizen of the State of Louisiana, acting individually and

as the natural tutrix (guardian) of her minor son, JOHN EARL WILLIAMS, respectfully shows:

I.

That your petitioner filed an action at law in the United States District Court for the Eastern District of Louisiana in her individual capacity and as the natural tutrix (guardian) of her minor son, JOHN EARL WILLIAMS, for $50,000.00 damages for the unlawful killing of L. E. WILLIAMS, her husband, and the father of her said minor son, against the GREAT SOUTHERN LUMBER COMPANY, a corporation organized under the laws of Pennsylvania, but doing business in the State of Louisiana.

II.

She charged that her husband was brutally and maliciously killed without any cause or provocation at his home and place of business in the lumber town of Bogalusa, La., by the white guards and the agents, officers, and employees and gunmen of the Defendant Company, acting within the scope of their employment and for the benefit of the Company in furtherance of a conspiracy by the said tort feasors to kill L. E. Williams and his associates for the sole reason that Williams was a leader in organizing the white and negro laborers of the Defendant Company's Lumber Mill, in a labor union, the motive being to remove him from that sphere of activity and thus destroy organized labor in Bogalusa.

III.

The defendant denied said charge and alleged that plaintiff's husband had been shot and killed by a duly appointed and qualified posse of peace officers appointed by the Police Commissioner while he was unlawfully resisting such officers in attempting to serve warrants which had been issued by the Court of the City of Bogalusa, for the arrest of Sol Dacus, a negro labor leader, and Bouchillon and O'Rourke, white men, who were charged with disturbing the peace.

IV.

After a trial, which lasted about four weeks, the jury rendered a verdict for $50,000.00 in favor of petitioner against the Defendant Company.

V.

Defendant filed a motion for a new trial assigning some twenty-three alleged errors, which motion was argued before District Judge Beattie, but Judge Beattie having died before rendering a decision, the motion was reargued before District Judge Dawkins, who found no error except as to the amount of the verdict and dismissed the motion upon the plaintiff's entering a *remittitur* reducing the amount to $30,000.00.

VI.

Respondent then sued out a writ of error to the Court of Appeals assigning the same twenty-three errors which Judge Dawkins had overruled. The

Court of Appeals reversed the judgment of the District Court and remanded the case for a new trial on two alleged errors, which your petitioner now shows are not at all errors, but, if errors, are not errors which affect the substantial rights of defendant, viz:

1. The Court of Appeals held that the District Court had erred in refusing to allow the defendant to show that Bouchillon and O'Rourke, two white labor union men, while parading the main street of the town of Bogalusa, about two hours before the killing of Williams, armed with guns, with Dacus, the negro labor organizer between them, had, by spoken words, threatened any white man who should attempt to take Dacus from them, on the ground that the said words, as against Williams, although absent when they were uttered, were neither hearsay nor irrelevant but part of the *res gestae.*

2. That the District Court had erred in permitting Mrs. Williams to testify that one, BOB CARSON, who was a member of the posse, and who was subsequently introduced as a witness for the defendant, had stated in her presence at Williams' house, a few minutes after Williams had been killed, and while his body lay on the floor "they had come to kill Lem Williams and they had killed him" on the ground that such testimony was hearsay and not part of the *res gestae,* nor a declaration of a co-conspirator, nor a statement of an employee of the defendant, as held by the District Court.

VII.

Your petitioner respectfully shows that the two Judges of the District Court not only did not err in either of the said two rulings, but that, even if the said rulings were held erroneous, that they were purely technical errors which could not possibly affect the substantial rights of the defendant and that the Court of Appeals erred in not applying the provision of Sec. 269 of the Judicial Code, as amended by Act of February 26, 1919, Ch. 48, 40 Stat. at L., 1181, Compiled Statute, 1246, which reads:

> "The Court shall give judgment after an examination of the entire record before the Court without regard to technical errors, defects or exceptions which do not affect the substantial rights of the party."

VIII.

Your petitioner further shows, that the Court of Appeals has based its reversal for the first alleged error on the ground that the defendant had predicated its defense on a showing that the party or posse had been legally created and was legally bent on serving the warrant of arrest with no ulterior motive and that the defendant was entitled to show that there was need of a number of officers, instead of a single one, to safely accomplish the arrest; whereas, the evidence before the jury tended to show that there was no warrant of arrest for Williams, who had committed no offense, that in so far as he was concerned there was no justification to appoint a posse for his arrest, that he was absent when the threatening words

were uttered and knew nothing about them and that, therefore, as to him the evidence was hearsay, immaterial and irrelevant.

Petitioner further shows that such an error, if error, could not possibly affect the substantial rights of the defendant, because the testimony before the jury tended to show that the posse, conceding it to have been regularly and legally appointed, was, by reason of its intrinsic character, its composition and its extraordinary number, viz., 75 men armed with guns and rifles to arrest three men, not a posse in the legal sense of the term, but a mob, composed mostly of officers, agents and employees of the defendant and their coconspirators, who had been summoned by the blowing of the Lumber Mill's whistle and who were acting under the guise of a posse, not only within the scope of their authority as such employees, but in execution of a conspiracy to kill Williams and remove him from all activity as a labor organizer for the benefit of the defendant company and that they had carried out their purpose, for they had not arrested Williams, but had killed him and had thereby destroyed organized labor in Bogalusa; hence, the real issue was not whether a posse was needed and had been legally constituted, but whether, by reason of its intrinsic character and its achievements, which revealed its motive, it was a posse in the true sense of the term.

IX.

Your petitioner shows that the ruling of the Court of Appeals on the second point was founded upon the argument that the testimony was hearsay and not part

of the *res gestae*, but the record shows that Carson's statement was a spontaneous exclamation made at the time of great excitement and when he did not have any opportunity to think or reflect and was, therefore, a spontaneous response to the shock of the terrible slaughter and shooting, for the reason that he was there on the scene of the killing, on the property of deceased and heavily armed, his co-conspirators and co-tort feasors also armed; and, that it was, moreover, an admission of an agent in the performance of his duty within the scope of his employment; for, the question whether or not Carson was an employee and an agent was a question for the jury, as there was affirmative evidence tending to show that he was an employee and the destruction of the books of the Company, after the action for damages had been instituted, tended to show that these books would have revealed his employment; that the conspiracy moreover had not terminated, because Carson was still armed and on duty and shielding his co-conspirators against future civil action and criminal prosecution.

Your petitioner further shows that, conceding that it was error to admit this testimony, yet it could not possibly affect the substantial rights of the defendant, because this testimony added nothing to what the jury already knew, *i. e.*, the jury knew that Williams had been killed; they knew that the mob had come to kill him because they not only had not arrested him, but had had no warrant for his arrest, and had killed him, so that the intent to kill was a presumption arising necessarily from the killing.

XI.

The Court of Appeals did not disclose and the defendant did not discharge the burden of showing what substantial rights had been affected by either or both of these technical errors nor have they disclosed and shown that the verdict would have been otherwise affected.

XII.

Your petitioner further shows that it is of exceedingly grave importance that there be a clear and definite determination, interpretation and application of the provisions of Sec. 269 of the Judicial Code, as amended by the Act of February 26th, 1919, Comp. Stat., 1246, and that the Court define what is meant by "TECHNICAL ERRORS WHICH DO NOT AFFECT THE SUBSTANTIAL RIGHTS OF THE PARTY"; that the decision of the Court of Appeals is in conflict with the weight of authorities and that the Court has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's power of supervision.

WHEREFORE, because of the gravity and importance of the questions involved and the necessity to secure a definite interpretation and the enforcement of the provisions of Sec. 269 of the Judicial Code (as amended by Act of February 26th, 1919) (Comp. Stat., 1246), your petitioner respectfully prays that a writ of certiorari may be issued out of and under the seal of this Court, directed to the Judges of the United States Circuit Court of Appeals, for the Fifth Circuit, commanding them and each of them to certify and to

send to this Court, on a certain date therein designated, a full and complete transcript of the record of the proceedings of that Court in this case, which were there entitled No. 4849, GREAT SOUTHERN LUMBER COMPANY, PLAINTIFF IN ERROR, v. MRS. L. E. WILLIAMS, DEFENDANT IN ERROR, to the end that the judgment of the said Court in such case may be reviewed, as provided by Section 240 of the Judicial Code (no other method of reviewing being provided by law); and that your petitioner may have such other and further relief or remedy in the premises as this Court may seem appropriate and in conformity with the provisions of the Judicial Code; and that the judgment of the said United States Circuit Court of Appeals may be revised by this Honorable Court.

And your petitioner will ever pray.

MRS. L. E. WILLIAMS,
Individually and As Natural
Tutrix (Guardian).

W. J. WAGUESPACK,
A. T. HIGGINS,
MAX M. SCHAUMBURGER,
Attorneys for Petitioner.

STATE OF LOUISIANA,
PARISH OF ORLEANS,
CITY OF NEW ORLEANS.

MRS. L. E. WILLIAMS, individually and as natural tutrix, being first duly sworn, deposes and says:

That she has read the foregoing petition and that all the allegations contained therein are true and correct except those made on information and belief and as to those affiant swears she believes them to be true.

MRS. L. E. WILLIAMS,
Individually and As Natural
Tutrix (Guardian).

Sworn to and subscribed before me,
This 6th day of May, 1927.

M. M. SCHAUMBURGER,
Notary Public.

CERTIFICATE OF COUNSEL.

I hereby certify that I have examined the foregoing petition and in my opinion it is well founded and the case is one in which the prayer of the petition should be granted by this Court.

W. J. WAGUESPACK,
Counsel for Petitioner.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1926.

NO.....

MRS. L. E. WILLIAMS, INDIVIDUALLY AND AS NATURAL TUTRIX OF HER MINOR SON, JOHN EARL WILLIAMS,

Petitioner,

versus

GREAT SOUTHERN LUMBER COMPANY,

Respondent.

Brief in Support of Application for Certiorari.

THE OPINION OF THE COURTS BELOW.

The opinion of the District Court is reported in *13 Fed. (2d), 246.*

The opinion of the Circuit Court of Appeals is reported in *17th Fed. (2d), page 468.*

JURISDICTION.

The date of the judgment to be reviewed is February 17, 1927. (R., 1084.) The Court of Appeals denied an application for a rehearing on March 30, 1927. (R., 1096.)

The jurisdiction of the District Court is founded upon diversity of citizenship under Sec. 24 of the Judicial Code; that of the Circuit Court of Appeals, under Sec. 128 of the Judicial Code, as amended by the Act of February 13, 1925, Chap. 229, 43 Stat. L., 936, and the jurisdiction of this Court on this application for certiorari is invoked under the provisions of Sec. 240 of the Judicial Code as amended by Act of February 13, 1925. The jurisdiction of this Court is, therefore, solely statutory and indisputable.

STATEMENT OF THE CASE.

The question presented by this application involves, in the last analysis, the interpretation, construction and application of Sec. 269 of the Judicial Code as amended by Act of February 26, 1919, Comp. Stat. 1246, Chap. 48, 40 Stat. L., 1181, which reads as follows:

> "On the hearing of any appeal, certiorari, writ of error, or motion for a new trial in any case, civil, or criminal, the court shall give judgment, after an examination of the entire record before the Court, without regard to technical errors, defects, or exceptions which do not affect the substantial rights of the parties."

But, two primary questions involving technical errors in the Court of Appeals are also involved, viz:

1. Whether the District Court erred in refusing to allow the defendant to show that Bouchillon and O'Rourke, two white labor union men, while parading the main street of the Town of Bogalusa about two hours before the killing of Williams, with guns, with Dacus, the negro labor organizer, between them, had, by spoken words, threatened any white man who would attempt to take Dacus from them, on the ground that the said words or remarks although uttered in the absence of Williams, who was not to be arrested, still were not hearsay, as against plaintiff, but relevant and part of the *res gestae.*

2. Whether the District Court had erred in permitting Mrs. Williams to testify that one, Bob Carson, who was a member of the so-called posse and who was subsequently introduced as a witness for the defendant, had stated in her presence at Williams' house a few minutes after Williams was killed and while his body lay on the floor "they had come to kill Lem Williams and they had killed him," on the ground that such testimony was hearsay and not part of the *res gestae*, nor a declaration of a co-conspirator, nor a statement of an employee of the defendant, as held by the District Court.

Assuming that the District Court erred in its ruling as to both questions, the ultimate question is:

> "Whether either of these errors or both affect the substantial rights of the defendant within the meaning of the statute or are mere technical errors, which, after an examination of the entire record before the Court, are harmless and for which there should have been no reversal."

ARGUMENT.

I.

The Court of Appeals based its reversal for the first error upon the ground that defendant had predicated its defense on showing that the posse which went to Williams' house had been legally created, and was bent on serving the warrant of arrest with no ulterior motive, and, for that reason, the defendant was entitled to show that there was need of a number of officers instead of a single one to safely accomplish the arrest. To safely accomplish whose arrest? Not Williams', for he was not charged with any offense and there was no warrant for his arrest. There was no justification, therefore, to appoint a posse for his arrest, nor was there any need of a posse, since he was not to be arrested. Hence, the evidence as against plaintiff was not relevant.

If Judge Beattie had admitted the evidence on the ground that as against the plaintiff it was part of the *res gestae* as tending to show the need of a posse to arrest Williams, against whom no warrant of arrest

had been issued, the ruling would have clearly been erroneous. The proposition is, we think, too simple for argument.

But, conceding that it was error to exclude the evidence even as against the plaintiff, although the remarks or words were uttered in Williams' absence and were clearly hearsay and irrelevant as to plaintiff, but conceding that they were relevant, and assuming that the posse was needed to safely accomplish the arrest, and had been legally constituted, the exclusion of this evidence could not affect the substantial rights of the defendant, because the real and material issue before the jury was not whether a posse was needed to make the arrest, but whether the intrinsic character of the so-called posse, its extraordinary number, viz: 75 men armed with pump and shot guns and rifles, to arrest three men, its composition, viz: mostly officers and employees of the defendant, and summoned by the blowing of the defendant's mill whistle, what that posse did, its conduct, its achievement, the wholesale killing of those whom it went to arrest, all revealed the so-called posse to have been not a lawful posse, but a mob, which, under the guise and cloak and mask of a regularly appointed posse of special officers, were merely a mob of 75 armed men acting as the officers and employees of the defendant company within the scope of their employment, for the benefit of the defendant, bent, not on arresting, but on killing Williams, Bouchillon, O'Rourke and Dacus, in order to remove them from the sphere of activity as organizers of the Labor Union, both white and colored, in order to destroy organized labor in Bogalusa.

Hence, the evidence which was excluded was immaterial and harmless and could not affect the substantial rights of the defendant, because an examination of the entire record will reveal that it was the intrinsic character of the posse, its composition and what it did, the malicious killing of Williams, Bouchillon, O'Rourke and two others, and the destruction of labor in Bogalusa, which determined the verdict regardless of whether the posse was needed to make the arrest and had been legally appointed.

The evidence shows that the mob was composed of about 75 men, heavily armed with rifles, pump-guns, double-barrel shot guns loaded with buckshots (R., 211-331-400-401-404-76-77-78-610-662-71-74-77 - 734-47-60-823-37-43-53-85-871-997); that they killed Williams, Bouchillon, O'Rourke, Gaines and Richeau without provocation. (R., 163-64-65-67-69, 214-15-97-98-99-301-2-3-39-42-54-58-60-66-88-94-95-97, 400 - 1 - 2 18-19-48-76-77-79-650-824-825-180-595-604 - 39 - 53-747-48, 215-16-271-310-316-362-376-388-438-453, 625-626-1001-613-647-48-883), and that the walls of Williams' office were riddled with buckshots. (R., 297-397-398-589.)

The motive for the killing is shown by the testimony of W. H. Sullivan, general manager of defendant company and at the same time mayor of the Town of Bogalusa (R., p. 954), viz:

> Q. Did they suggest they were going to organize the colored labor?
>
> A. They said they had it in mind the first time, and we discussed it and I told

them, as far as I knew conditions in the South, it would be a great mistake. The next time they came to see me, they said they had gone a little further and felt they could not make very much progress among Southern saw mills, unless they organized negro labor. I told them I feared if anything of that kind was attempted, it would probably create trouble of some kind.

Q. You had reference to race trouble?
A. Yes sir.

Q. How many negro laborers did you employ at that time?

A. Well, at that time, we were employing, I think, about 2500 men, and about, as I recall it, about sixty per cent of them were darkies.

Among those who were in the mob were Major Guerre, manager of the defendant's lumber plant; Paul LeBlanc, assistant manager of the plant, and foreman of the company; Dr. Brister, superintendent of the company's hospital; McElroyd, Wiley Magee and Bob Carson, guards of the company; Geo. Townsen, sales manager; Mr. Hold, employee of the company (R., 163-64-74-99, 217-18-27, 318-21, 22, 34, 36, 39, 44, 45-95, 96, 400-1-4-50-52-53-76-88-89-93-94-95, 466, 613-616-621-22-25-28-29-83-84-721-928-29-32, 281-360-998-999-1027-28-29-32-35-36 and 37.

Major Guerre, manager of the plant, and Jack Cassidy, assistant general manager, admitted that they were the ones who gave orders to blow the company's

siren whistle as a special "riot signal" for the assembling of the mob which, after having been assembled, proceeded in a large body directly to Williams' home to "intimidate" him. (R., 581-83-84-86-603-18-19-20-21-25-26-27-28-700-90-993-1001.)

Hence, the intrinsic character of the posse and the horrible slaughter which resulted, revealed clearly to the jury the ulterior motive, so that the question whether there was need of a posse and whether it was legally appointed, became utterly immaterial.

II.

The Court of Appeals based its reversal for the second alleged error upon the ground that Carson's statement "that they had come to kill Williams and had killed him," was hearsay and not part of the *res gestae.*

Our contention is that Carson's statement was admissible on all or any one of these several grounds:

(a) As a spontaneous declaration and, therefore, an exception to the hearsay rule.

(b) As an admission of an agent in the performance of his duty within the scope of his employment.

(c) As an admission by a co-conspirator or joint tort feasor in connection with the conspiracy and before the conspiracy had come to an end.

(a)

The evidence tended to show that Carson's statement was a spontaneous exclamation at a time when he did not have opportunity to think or reflect; it was a spontaneous response to the actual sensation produced by the shock of the terrible slaughter and shooting, for the bodies of the murdered men were still lying where they had fallen, and Carson was on the scene of the killing on the property of the deceased, heavily armed, his co-conspirators and co-tort feasors being also present and armed. (R., 484.)

The principle applicable is expressed in *Wigmore on Evidence, Vol. 3, Sec. 1747*, thus:

> "Since this utterance is made under the immediate and uncontrolled domination of the senses, and during the brief period when considerations of self-interest could not have been brought fully to bear by reasoned reflection, the utterance may be taken as particularly trustworthy (or, at least, as lacking the usual grounds of untrustworthiness), and thus as expressing the real tenor of the speaker's belief as to the facts just observed by him; and may, therefore, be received as testimony to those facts."

Nor is this rule limited by time, for it is immaterial whether the statement be made one minute or twenty minutes after the accident, the sole question

being whether the party making the statement did so under the excitement of the moment.

Corpus Juris "Evidence," Sec. 535, p. 448, Sec. 539, page 450.
Insurance Co. v. Mosley, 8 Wal., 407.
Beaver v. Taylor, 1 Wal., 542.

In *Missouri R. R. Co. v. Anderson, 198 S. West Rep.*, the Supreme Court of Texas said:

> "Questions of this kind must largely be left to the sound judicial discretion of the trial Judge who is compelled to view all the circumstances in reaching his conclusions and this Court will not reverse his ruling."

(b)

There was affirmative and circumstantial evidence tending to show that Carson was an employee of the company, and the failure of the defendant to produce the payrolls which were called for by plaintiff by *subpoena duces tecum*, because they have been destroyed by defendant after the filing of this suit, is presumptive evidence tending to show that if the payrolls had been produced they would have revealed that Carson was an employee. The question whether he was an agent of defendant acting within the scope of his authority was, however, for the jury. (R., 63-485-88-89-279-80-81-94-864-65.)

Jones on Evidence, R. P. 536.

(c)

There was evidence tending to show that Carson was a co-conspirator and that the conspiracy was not ended, because Carson was still on the premises heavily armed as a guard and was keeping disinterested parties from coming in and, as such, manifestly keeping out disinterested witnesses who might be used as valuable witnesses against the Great Southern Lumber Co., in any damage suit resulting from the killing. (R., 864-871.)

There was evidence tending to show that some of the conspirators were actually placing guns and ammunition in Williams' office to make it appear that Williams and his associates were prepared to resist them, and Carson was stationed as a guard for the purpose of stopping any outsider from entering the premises. (R., 478-79.)

Hence, the statement was admissible as evidence not only upon one ground, but upon three grounds, one of which alone was sufficient.

But, assuming and conceding *arguendo* that the admission of the evidence was error as being hearsay, it could not possibly affect the substantial rights of the defendant, because it added nothing at all to what the jury already knew. The jury knew that Williams had been killed; they knew that the mob had no warrant for his arrest, and, therefore, that they had not come to arrest him, but they knew that the mob had

killed him, and they knew of the circumstances attending the killing, and since he was not to be arrested the presumption to kill him arose necessarily from the killing and the extraordinary circumstances surrounding the killing. Hence, the evidence was immaterial and harmless.

THE JUDGMENT OF REVERSAL WAS CONTRARY TO THE WEIGHT OF AUTHORITIES.

It is indisputable that the burden of proof to show prejudicial error from the whole record was upon plaintiff in error.

Armstrong v. U. S., 16 Fed. (2), 65.
Shuman v. U. S., 16 Fed. (2), 457.
Haywood v. U. S., 268 Fed., 795.
Simpson v. U. S., 289 Fed., 188.
Rich v. U. S., 271 Fed., 566.
Horning v. Dist. of Col., 254 U. S., 135.
Parker, et al., v. Elgin, 5th Fed., 2nd Series, p. 562, C. C. A., 6th Circuit.
Mitchell v. Pittsburgh Rd. Co., 13th Fed., 2nd Series, p. 704.

Defendant, plaintiff in error, has failed to discharge this burden of proof. Your petitioner, however, has clearly shown, we think, that both errors, if they were errors, did not affect the substantial rights of the defendant, and were harmless, as shown by the whole record.

The following authorities show that the judgment of the Court of Appeals is against the weight of authorities both in this Court and in all the Circuit Courts of Appeals:

U. S. v. River Rouge Co., 269 U. S., 411, 46 S. C., 144.
Belisle v. Lisk, 16 Fed. (2), 261.
Yazoo R. R. v. Mullens, 249 U. S., 531, 39 S. C., 368.
Horning v. Dist. of Columbia, 254 U. S., 135, 41 S. C., 53.
Garcia v. U. S., 10 Fed. (2d), 355.
Kremer v. U. S., 11 Fed. (2d), 722.
Carpenter v. U. S., 280 Fed., 598.
Popham v. U. S., 11 Fed. (2nd), 966.
Rich v. U. S., 271 Fed., 566.
Reid v. Baker, 288 Fed., 969.
Weinstein v. U. S., 11 Fed. (2nd), 505-509.
Redmond v. U. S., 8 Fed. (2), 24-29.
Barron v. U. S., 5 Fed. (2nd), 799-804.
Lewis v. U. S., 11 Fed. (2), 745-747.
Tenebaum v. U. S., 11 Fed. (2), 927.
Bank v. Brown, 8 Fed. (2), 521.
Chew v. U. S., 9 Fed. (2), 348.
Harris v. U. S., 10 Fed. (2), 358.
Ohio Bank v. Greenebaum Bank, 11 Fed. (2nd), 87-91.

The trial of this case lasted more than four weeks. A great mass of evidence was taken and a wide range

of inquiry covered. Your Honors have said in *U. S. v. Trenton Potteries Co.*, decided February 21, 1927, *47 Sup. Ct. Rep., p. 382:*

> "In such a case a new trial is not lightly to be ordered on the grounds of technical errors in ruling on the admissibility of evidence which do not affect matters of substance."

CONCLUSION.

We submit that this case presents ultimate questions which are of vast importance, not to petitioner only, nor to the South only, but to the whole nation, viz:

(1)

Whether rich and powerful corporations in the South shall destroy organized labor, both white and colored, by unlawfully killing the leaders of organized labor under the cloak of law with impunity and without compensation.

(2)

Whether the constitutional right of jury trial in civil actions shall be set at naught by technicalities and harmless error.

(3)

Whether the fundamental principles and rules of evidence and the discretion of the trial Judge, wisely exercised, in the exclusion and the admission of evidence shall be obliterated.

(4)

Whether the Act of February 26, 1919, shall be construed as merely directory and discretionary and not at all as mandatory.

We, therefore, respectfully urge that this case is peculiarly one calling for the exercise by this Court of its supervisory power in order that the questions propounded may be settled for the benefit of the whole country, and that to such an end a writ of certiorari should be granted, and this Court should review the decision of the Circuit Court of Appeals and should finally reverse it.

Respectfully submitted,

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New Orleans, May 9, 1927.

Office Supreme Court, U. S.
FILED
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CHARLES ELMORE CROPLEY
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1927.

No. 252

MRS. L. E. WILLIAMS, INDIVIDUALLY AND AS NATURAL TUTRIX OF HER MINOR SON, JOHN EARL WILLIAMS,

Petitioner,

versus

GREAT SOUTHERN LUMBER COMPANY,

Respondent.

BRIEF ON BEHALF OF PETITIONER.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1927.

No. 252

MRS. L. E. WILLIAMS, INDIVIDUALLY AND AS NATURAL TUTRIX OF HER MINOR SON, JOHN EARL WILLIAMS,

Petitioner,

versus

GREAT SOUTHERN LUMBER COMPANY,

Respondent.

BRIEF ON BEHALF OF PETITIONER.

THE OPINIONS OF THE COURTS BELOW.

The opinion of the District Court is reported in *13 Fed. (2d), 246.*

The opinion of the Circuit Court of Appeals is reported in *17th Fed. (2d), page 468.*

JURISDICTION.

The date of the judgment to be reviewed is February 17th, 1927. (R. 1084). The Court of Appeals

denied an application for a rehearing on March 30th, 1927. (R. 1096).

The jurisdiction of the District Court is founded upon diversity of citizenship under Sec. 24 of the Judicial Code; that of the Circuit Court of Appeals under Sec. 128 of the Judicial Code, as amended by the Act of February 13th, 1925, Chap. 229, 43 Stat. L. 936, and the jurisdiction of this Court on *certiorari* is invoked under the provisions of Sec. 240 of the Judicial Code as amended by Act of February 13th, 1925. The jurisdiction of this Court is, therefore, solely statutory and indisputable.

STATEMENT OF THE CASE.

PLEADINGS.

Mrs. L. E. Williams, a citizen of the State of Louisiana, residing in the City of New Orleans, for herself and on behalf of her minor son, John Earl, 8 years of age, as his tutrix, filed this suit against the Great Southern Lumber Co., a Pennsylvania corporation, owner and operator of a sawmill at Bogalusa, Louisiana.

She charged that her husband was brutally and maliciously killed without any cause or provocation, at his own home and place of business in the lumber town of Bogalusa, by the white guards, agents, officers, and employees and gunmen of the defendant company, acting within the scope of their employment and for the benefit of the company, in furtherance of a conspiracy

by the said *tort feasors* with others, to kill L. E. Williams and his associates for the only reason that Williams was organizing the white and negro laborers of the defendant's company's lumber mill in a labor union, the motive being to remove him from that sphere of activity and thus destroy organized labor in Bogalusa; but that even if a conspiracy could not be amply proven, yet the company would be responsible for the alleged wrongful and tortious acts of its agents and employees acting within the scope of their employment and authority for the benefit of the company. (R. 2-7; 10-13).

The defendant denied said charge and alleged substantially that plaintiff's husband had been shot and killed by a duly appointed and qualified posse of peace officers appointed by the Police Commissioner while he was unlawfully resisting such officers in attempting to serve warrants which had been issued by the Court of the Town of Bogalusa, for the arrest of Sol. Dacus, a negro labor leader, and Bouchillon and O'Rourke, white men, who were charged with disturbing the peace. (R. 17-22).

Defendant filed an exception of want of capacity in plaintiff, as the mother, to sue on the ground that she had not qualified as tutrix of her minor son, and together with it, an exception of no cause of action or vagueness. (R. 7).

On the trial of these exceptions the Court ordered the plaintiff to amend her petition. (R. 9).

Plaintiff filed an amended petition (R. 10-12), alleging that she had then qualified as the tutrix of her

minor son and she expanded and amplified her original petition so as to show more clearly that her husband had been killed as a result of the conspiracy between the officers and agents of the defendant company and its employees acting within the scope of their authority and their employment and others; although in her original petition she had alleged sufficient facts to constitute a conspiracy, she had not used the word "conspiracy." (R. 10).

To this amended petition defendant interposed another exception to the effect that the amendment stated a new cause of action based on conspiracy, which had not been alleged in the original petition, and that, therefore, the second cause of action was prescribed under the laws of Louisiana. (R. 13-14).

The Court overruled this exception. (R. 16).

The defendant then filed its answer, alleging substantially that plaintiff's husband had been shot and killed by a duly appointed and qualified posse of peace officers of Bogalusa, while he was unlawfully resisting such peace officers in attempting to serve warrants which had been legally issued by the Court of the Town of Bogalusa for the arrest of Sol. Dacus, a negro laborer, charged as a dangerous and suspicious character, and Bouchillon and O'Rourke, who were charged with disturbing the peace. (R. 12-22).

Plaintiff thereafter filed a second supplemental petition by which she joined five of the conspirators who had been members of the mob which had killed Williams, and prayed for a judgment against them, severally and *in solido*. (R. 30-34).

To this supplemental petition there were exceptions filed similar to the exceptions filed by the Great Southern Lumber Co. (R. 35).

The Court overruled these exceptions. (R. 37).

The co-defendants then filed their answers, alleging substantially the same grounds of defense set forth by the Great Southern Lumber Co. (R. 40-58).

STATEMENT OF FACTS.

The Great Southern Lumber Co. built its lumber mill (one of the largest in the world) and established the lumber town of Bogalusa, in Washington Parish, Louisiana, over twenty-five years ago.

The company owned and controlled practically the entire municipality of Bogalusa and the property embraced within its limits, so that Bogalusa and the Great Southern Lumber Co. were interchangeable terms. (R. 282).

W. H. Sullivan, the company's vice-president, was acting president, executive officer, with full power and authority, the president being a non-resident and president only nominally.

Sullivan was not only acting president, but he was also the general manager of the plant and simultaneously mayor of Bogalusa. Through Sullivan, acting as president, general manager and mayor of the town, the company had absolute control of the town, could destroy its business, or wreck every man in the town, if he showed any independence. (R. 282-291).

When the mayor was absent E. R. Cassidy, whose brother, J. H. Cassidy, was assistant general manager of the plant, acted as mayor. (R. 276).

The company employed to operate its plant over 2500 men, of whom about 1000 were white and 1500 colored. (R. 954-962-1002).

L. E. Williams (called Lem Williams), plaintiff's husband, who was killed, was the president of the local labor union and operated a garage and repair shop on Columbia Street, Bogalusa's main street.

Some time before the killing involved in this suit, Williams called on Sullivan, on behalf of the labor union, to have him recognize the union (R. 449-952), and a committee of the union also called on Sullivan for the same purpose. (R. 449). His reply was that the company would not recognize union labor and would not consent to a closed shop. (R. 449-950-991-992).

Williams wanted to organize also a union of the colored laborers in Bogalusa, but Sullivan advised against it because he said it would create trouble on account of their race. (R. 954).

Thereafter no union laborer could get employment in the company's mill unless he first tore up his union card. (R. 1017; 1018; 1006-07-08-09; 1010-11-12-13).

Sol. Dacus, a colored union organizer, with the assistance of Lem Williams, Bouchillon and O'Rourke, two white labor union organizers, was endeavoring, notwithstanding Sullivan's adverse attitude, to or-

ganize the colored laborers of the mill in a union. (R. 1001; R. 626).

The refusal of the Great Southern Lumber Co. to recognize the labor union, and its opposition to the organization of the colored laborers into a union, created hostility between Lem Williams, his associates, the organizers of the labor union, both white and black, and the Great Southern Lumber Co. This hostility was manifested on several occasions.

At one time the electric lights and the water of the town, which were supplied by the machinery of the Great Southern Lumber Co., were cut off for twenty-four hours, Williams and his associate labor union men having gotten the employees to abandon their post.

The Great Southern Lumber Co., by way of protecting itself against the members of the union, had erected a high boarded fence around its mill property and stationed machine guns inside with armed men at the gates. It had a number of gunmen in its employ, and among them was Wiley Magee (the man who led the mob and killed Williams). (R. 998-99).

Such was the condition in Bogalusa on November 21, 1919, when a warrant was sworn out before the City Court of Bogalusa, charging Sol. Dacus with being a dangerous and suspicious character, presumably under an ordinance of the city (which, however, was never produced in evidence), and there is not such an offense known under the State statutes, and a warrant was issued for his arrest and delivered to the Police Department. (R. 153).

Dacus was not a suspicious character, for he was well known in Bogalusa, where he had his home and where he worked as a laborer in defendant's mill while the mill was in operation; nor was he in any way a dangerous character. But he was endeavoring to organize the colored laborers of the defendant's mill in a union, as he had a right to do under the law, so that the charge had been manifestly made maliciously to intimidate him and the colored laborers and destroy all possibility of organizing a colored labor union by lodging their leader in jail. (R. 626-1001-02).

On November 21, 1919, Dacus was not found and the warrant could not be served, but on November 22nd, about 11 o'clock A. M., he was seen on Columbia Street, walking between Bouchillon and O'Rourke, who were armed, Bouchillon on one side of him and O'Rourke on the other. The evident purpose which Bouchillon and O'Rourke had in view was to restore confidence in Dacus and his colored laborers and counteract the effect of the malicious warrant which had been issued for the purpose of intimidating him and destroying the union. (R. 863-977-978-927-28).

Dacus was thus seen by a police officer of the town enter Williams' yard with Bouchillon and O'Rourke and he immediately reported the incident to the chief of police, whereupon warrants of arrest were sworn out against Bouchillon and O'Rourke, charging them with disturbing the peace. These warrants of arrest were placed into the hands of Magee, not a regular police officer, but a special police officer, the Great Southern Lumber Company's noted gunman. (R. 280-

81-85-86-87-450-452-79-85-88-89-494-633-1035-37). (R. 1027-28-29).

At 1 o'clock P. M. the siren whistle of the Great Southern Lumber Co., the whistle which was blown every day at 6 o'clock P. M., as a signal for the laborers to stop work, which also had been used in an emergency when there was a fire, was blown. There was, however, no fire, no emergency, no riot at that hour, but the whistle was blown as a result of an agreement with the chief of police and the officers of the Great Southern Lumber Co., to summon the special police officers, a posse, so called, to arrest Dacus, O'Rourke and Bouchillon. In answer to that call there assembled at the City Hall about 75 men, armed with rifles, double barrel shot guns loaded with buck shots, and among them were Major Guerre, the superintendent of the Great Southern Lumber Company's plant; Paul LeBlanc, assistant manager of the plant and foreman of the company; Dr. Brister, superintendent of the company's hospital; Bob Carson, Mr. McElroyd and Wiley Magee, guardsmen of the company, and George Townsend, sales manager of the company, and many others who were not identified as employees of the company, because the books of the company, which were called for by a *subpoena duces tecum*, had been burned by the defendant company, the company claiming that it had destroyed these books according to its custom. But it developed that those books had been destroyed after this suit had been filed. (R. 990-91-92-93). (R. 581-84; 700-1001). (R. 60-62-63-64).

Williams was in his office writing on his typewriter when the mob arrived; he got up and walked to

the door and asked what the crowd wanted. Wiley Magee, the leader of the mob, replied "we want you," and simultaneously shot and killed him instantly, and immediately a volley of shots was fired by the members of the crowd into William's office, killing Bouchillon, O'Rourke and Richeau, Williams' brother-in-law; shots were also fired at the same time in the garage, killing Gaines, Williams' employee. (R. 234, 297-339-164-408-467-397).

In the mob no one was killed and no one hurt except Jules LeBlanc, who was slightly wounded in the arm, and the evidence shows that Williams' brother, Jim, after Williams, O'Rourke, Bouchillon and Gaines had been shot and were lying down on the floor, fired two shots at Jules LeBlanc, wounding him. (R. 165).

Dacus was neither killed, nor arrested, as he was not on Williams' premises.

Defendant's witnesses, members of the mob, testify that when they reached Williams' office he came to the door holding a gun in his right hand, whereupon Wiley Magee told him to put down his gun, and just at that moment a shot was fired from the inside of the building and Wiley Magee shot Williams and killed him instantly, and a volley of shots was fired into the building.

But Wiley Magee and others who were in the mob, when placed on the stand as witnesses at the trial of the case, claimed their constitutional privilege and refused to answer questions by plaintiff's counsel on the

ground that it would incriminate them. (R. 647-48-883-767-797).

The mob immediately took possession of Williams' office and garage, stationed guards at the door and refused to allow anyone to come in, and the preponderance of evidence is that they placed guns of their own on the floor next to the bodies of Williams, Bouchillon and Gaines in order to prove that the latter were ready to resist arrest. They carried these guns away, but they did not produce them in Court on the trial of this case. (R. 169, 209, 234, 238-243-247, 297-98, 320, 339-40, 360, 408, 476, 397-98, 360-358, 356-379-397-98, 408-476-77).

When the siren whistle of the mill was blown Sullivan, the general manager of the company, the executive officer and general manager of the company and the mayor of the city, was engaged at that unusual hour, 1 P. M., in playing a game of golf, and, although he heard the alarm whistle of his company's mill, he manifested no surprise whatever, took no interest in the occurrence, made no inquiry by phone or otherwise as to why the alarm whistle was sounded, but calmly continued playing golf. Nor did Sullivan in any way protest against the blowing of the whistle and the slaughter which it had caused, but, on the contrary, by his silence and his conduct thereafter, after his return, approved and ratified what had been done. (R. 959-960).

The trial of the case lasted ~~about four~~ over two weeks. (R. 159; 1044).

At the close of plaintiff's evidence the defendants did not move for a directed verdict, but, on the contrary, introduced their evidence, but at the close of all of the evidence defendants moved the Court to direct a verdict in their favor.

The Court denied the motion. (R. 1044).

The jury rendered a verdict for $50,000.00 in favor of petitioner, individually and in her capacity as natural tutrix, against, severally and *in solido*, the Great Southern Lumber Company and the five co-defendants. (R. 85).

Defendant filed a motion for a new trial (R. 86), assigning some twenty-three alleged errors, which motion was argued before District Judge Beattie, but Judge Beattie having died before rendering a decision, the motion was reargued before District Judge Dawkins, who found no error except as to the amount of the verdict, and dismissed the motion upon the plaintiff's entering a remittitur, reducing the amount to $30,000.00. (R. 90).

During the argument of the motion for a new trial before Judge Beattie, he suggested that the five co-defendants who had been made defendants with the Great Southern Lumber Co., had been improperly joined, whereupon, prior to the rendition of its judgment denying a new trial, the Court allowed plaintiff to amend her petition, striking out all of the five co-

defendants who appeared to be of the same citizenship as plaintiff. (R. 103).

Respondent then sued out a writ of error to the Court of Appeals assigning substantially the same errors which Judge Dawkins had overruled.

The Court of Appeals grouped and discussed the questions presented by the assignment of errors as follows:

1. Those relating to the amendments to the petition, made before and after verdict.
2. Rejection of evidence offered by the defendant as to what was said by O'Rourke and Bouchillon as they were walking along Columbia Street with Dacus on the morning on the day of the killing.
3. Permitting Mrs. L. E. Williams, the plaintiff, and other witnesses to testify that Bob Carson stated to them that they had come to kill Williams and that they had done it.
4. The refusal of the District Court to direct a verdict for the defendant.

There was judgment reversing the judgment of the District Court on the grounds of error numbered 2 and 3, and remanding the case to the District Court.

As this Court will review the whole case we shall argue all of the questions as grouped by the Court of Appeals.

ARGUMENT.

(I)

Defendant's Contention That the Filing of the Amended Petition by Plaintiff As Tutrix, After More Than a Year Had Elapsed, Was Barred by Prescription, Is Refuted by Both the Law and the Jurisprudence of Louisiana and by Sec. 954, U. S. Statutes, Which Is Paramount.

By Article 253, C. C. of Louisiana, it is provided that should the surviving mother (the natural tutrix) refuse to qualify (by taking the oath) she shall be bound to fulfill the duties of a tutor until she has caused a tutor to be appointed. Her duty was, therefore, to file suit.

In the *Monteleone case, 143 La., 354*, upon which defendant relies, the Court says that such an exception (as to capacity) must be filed *in limine* otherwise it is waived; it is waived, if filed with another pleading, such as an exception of vagueness or of no cause of action, which admits the capacity to sue; and the Court distinguishes the *Monteleone* case from the case of *Creagh v. New Orleans Ry. & Light Co., 120 La., 305*, and the case of *Williams v. Pope Mfg. Co., 51 La., 185*, in both of which the exception had not been filed *in limine.*

In the *Creagh* case the Court said:

> "We do not think that we should maintain defendant's exception, and dismiss the suit on the ground that plaintiff had no right to stand in judgment as she had not been qualified as natural tutrix at the time that

suit was brought. The general rule of law is that any person natural or artificial may sue in the Courts of the country."

In the *Williams* case the Court said:

"It is not improper for a mother to sue in the same action for damages accruing to her individually and for damages accruing to her minor child as the result of one and the same act of defendant. The fact that in the same individual, in two capacities, the right to sue resides, coupled with the fact of the common origin of the cause of action, determines the question presented in favor of that view which makes one suit suffice for both claims."

Now defendant filed its exception of want of capacity together with the exception of no cause of action, with reservation it is true, but defendant tried both exceptions together and the Court rendered a single judgment (not two judgments) ordering the petition amended, and both amendments were matters of form merely.

But as said in the *Monteleone* case, such an exception must be filed *in limine;* hence, it is merely an exception as to form and not as to substance. The District Court, therefore, correctly allowed the amendment, under the law of Louisiana. But his ruling was correct under the authority of Sec. 954, U. S. Comp. Stat. An., 98 U. S., 948, which is paramount, and is not regulated by the Conformity Act.

Rio Grande Dam Co. v. U. S., 215 U. S. 276.
Ex Parte Fiske, 113 U. S., 721.

In the case of *Quaker City Cab Co. v. Fixter, 4 Fed., 2nd Series, 328,* it appears that the plaintiff claiming damages for the death of her husband, filed suit as the administratrix of his succession, not personally as surviving widow. During the argument for a new trial the attention of the Court was called to the fact that the plaintiff had no right of action as administratrix of her husband's succession, but only individually as widow. The Court thereupon allowed her to amend, and allege that she was prosecuting the suit as widow, and not as administratrix. On this point the Court said:

> "The cause was removed to the United States District Court for the Eastern District of Pennsylvania. It was not discovered by anyone—at least attention was not called to it—that she had wrongfully entitled her cause of action until May, 1924, when a motion for a new trial was argued. It was then raised for the first time by counsel for defendant. More than one year had elapsed since the deceased died, and the statute of limitations prevented a new action from being instituted.
>
> "The trial Judge permitted plaintiff to amend by striking out etc. Defendant contends that this in substance constituted a new action and was error. * * * We think the amendment was one of form, and not substance, and in such case an amendment may be made under Secs. 948 and 954 of the Revised Statutes of the United States, Compiled Statutes, Secs. 1580-1591. Federal Courts

are very liberal in allowing amendments to prevent a miscarriage of justice.

McDonald v. Nebraska, 101 Fed., 171; 41 C. C. A., 278.

Murphy v. Stewart, 43 U. S. (2 Howard), 263-281.

Reardon v. Copper Co. (C. C. A.), 193 Fed., 189.

"The facts in the case of Van Doran v. Penn. R. R. Co., 93 Fed. 260 (35 C. C. A. 282) were practically identical with those in the case at bar. Suit was there brought as administratrix and not as widow. Plaintiff sought to amend by substituting 'widow' for 'administratrix.' This Court with reference to the allowance of the amendment said: 'Substantial justice requires that such an amendment should be allowed as a second suit for damages for the death of Henry Can Doren would be barred by the one-year limitation in the Pennsylvania statute."

Quaker City Cab Co. v. Fistxer, 4 Fed. 2nd Series, 328.

In the case of *Missouri, Kansas & Texas R. R. Co. v. Wulf, 226 U. S., 570,* the Supreme Court of the United States said:

"The amendment was clearly within Sec. 954, Rev. Stat. Nor do we think it was equivalent to the commencement of a new action so as to render it subject to the two years limitation prescribed by Sec. 6 of the Federal Employers' Liability Act. The change was

in form rather than in substance. Stewart v. B. & O. R. R. Co., 168 U. S. 445. It introduced no new or different cause of action, nor did it set up any different cause of action, nor did it set up any different state of facts as to the grounds of action, and therefore it related back to the beginning of the suit. Texas Pacific R. R. Co. v. Cox, 145 U. S. 593; Atlantic & Pacific R. R. Co. v. Laird, 164 U. S. 393."

The Supplemental Petition Did Not Change the Original Cause of Action Nor State a New Cause of Action, But Only Expanded and Amplified the Original Cause of Action Since Both Petitions Allege One and the Same Cause of Action, viz., One and the Same Single Wrongful Invasion of One and the Same Single Primary Right, viz., the Unlawful Killing of Williams.

Defendant contends that the supplemental petition changes the cause of action and states a new cause of action in that plaintiff bases her action therein upon a conspiracy, whereas in the original petition her right of action is founded upon the doctrine of *respondeat superior.*

Defendant is radically wrong, for a conspiracy is the combination of two or more persons by concerted action to accomplish a criminal or unlawful purpose.

Duplex Printing Co. v. Deering, 254 U. S., 443.

Truax v. Corrigan, 257 U. S., 312.

In her original petition plaintiff alleges abundantly acts and facts which constitute conspiracy without, however, using the word "conspiracy"; she alleges that the unlawful killing was done by defendant, its agents and employees; by a mob composed largely of defendant's agents and employees and others who were deceived into joining them and, that by a prearranged plan of defendant's agents and employees, the siren whistle of defendant's mill was to be blown and was blown to assemble the mob, and after assembling they proceeded to the home of Williams and killed him.

In the second petition plaintiff amplifies merely the allegations of her first petition and uses the word "conspiracy" in doing so, stating the facts more in detail in compliance with the order of Court in order to satisfy defendant's exception of vagueness, which was styled an exception of no cause of action, but which the Court treated as one of vagueness under the authority of *James v. City of New Orleans, 151 La., 480,* in which the Supreme Court of Louisiana said:

> "Although defendant's attorneys denominated their plea of exceptions to the original petition an exception of no cause or right of action, it was, in substance and reality, an exception of vagueness or insufficiency of detail in the allegations of the petition. * * * As the motion did not set forth a new cause of action, it was error to say that the cause of action therein referred to was barred by

the prescription of one year subsequent to the filing of the suit.

McCubbins v. Hastings, 27 La. An. 713.
Landis v. Ill. Central R. R. Co., 140 La. 1, citing *Missouri, Kansas & Texas R. R. Co. v. Wulf, 226 U. S. 570."*

But conceding, *arguendo*, that plaintiff had not alleged conspiracy in the first petition and had alleged a conspiracy in the second petition, still the exception would not be well founded, because this being a civil action, it is not the conspiracy which is the foundation of the cause of action, but it is *the tort working damage to the plaintiff* by the conspiracy.

James v. Evans, 149 Fed., 136, 80 C. C. A., 240.
Bissell v. Beckwith, 33 Conn., 355.
Booker v. Puyer, 27 Nebr., 346.
Van Horn v. Van Horn, 56 N. J. Law.

But your Honors on the 16th of May, 1927, in *Baltimore S. S. Co. v. Philips, — U. S., 47, Sup. Ct. Rep., 901*, dispelled all contentions as to this point.

Your Honors said:

"In either view, there would be but a single wrongful invasion of a single primary right of the plaintiff, namely, the right of bodily safety, whether the acts constituting such invasion were one or many, simple or complex.

"A cause of action does not consist of facts, but of the unlawful violation of a right which the facts show. The number and va-

riety of the facts alleged do not establish more than one cause of action so long as their result, whether they be considered severally or in combination, is the violation of but one right by a single legal wrong. The mere multiplication of grounds of negligence alleged as causing the same injury does not result in multiplying the causes of action. 'The facts are merely the means, and not the end.' They do not constitute the cause of action, but they show its existence by making the wrong appear. 'The thing, therefore, which in contemplation of law as its cause, becomes a ground for action, is not the group of facts alleged in the declaration, bill, or indictment, but the result of these in a legal wrong, the existence of which, if true, they conclusively evince.' Chobanian v. Washburn Wire Company, 33 R. I. 289 ('0 A. 400 Ann. Cas. 1913 D. 730). * * *

Berube v. Horton, 199 Mass., 421.

"Many other cases are to the same effect. In the case last cited there was a declaration in an action for personal injuries containing a count at common law alleging failure to provide a reasonably safe place, and a count under the Employers' Liability Act (Comp. St., Secs. 8657-8665), alleging a defect in the ways, works, or machinery. To this declaration, after the expiration of the period of the statute of limitations, an amendment was allowed alleging negligence of the defendant's superintendent as the cause of the same acci-

dent. The Massachusetts Supreme Judicial Court held that the statute of limitations could not be invoked because the amendment did not state a new cause of action, but was simply another statement of the same cause of action, that cause of action being 'the injury under the circumstances under which it took place.'

* * * * *

"The judgment of the court below, as shown by its opinion, was based, in the main if not entirely, upon Troxell v. Del. Lack. & West R. R., 227 U. S. 434, 33 S. Ct. 274, 57 L. Ed., 586, which was construed as holding 'that it was one cause of action not to furnish safe cars, and another to use safe cars carelessly.' The opinion in that case is not to be read as announcing any such general rule. If so, in the light of the foregoing discussion, we now should feel obliged to disaffirm it."

The Amendment Showing That Plaintiff Was a Citizen of Louisiana Was a Matter of Form and Not of Substance and Reverted Back to the Filing of the Original Petition.

This is too plain for argument. It is regulated by the very letter of Sec. 274, U. S. Judicial Code (c), as amended by Act of March 3rd, 1915:

"That where in any suit brought in, or removed from any State Court to, any District Court of the United States, the juris-

diction of the District Court is based upon the diverse citizenship of the parties, and such diverse citizenship exists at the time the suit was brought or removed, though defectively alleged, either party may amend at any stage of the proceedings and in the appellate court, upon such terms as the court may impose, so as to show on the record such diverse citizenship and jurisdiction, and thereupon such suit shall be proceeded with the same as though the diverse citizenship had been fully and correctly pleaded at the inception of the suit, or if it be a removal case, in the petition for removal."

Prior to the Act of March 3rd, 1915, the jurisprudence also was to the same effect:

Mexican Central R. R. v. Duthie, 189 U. S., 76.

Robertson v. Cease, 97 U. S., 646.

Chicago & C. R. R. v. Stephens, 218 Fed., 540.

Kinney v. Loan Co., 191 U. S., 78.

In *Realty Holding Co. v. Donaldson, 268 U. S., 1015*, your Honors said:

"It was, however, conceded by appellee in the court below, as well as here, that she was in fact a citizen of Michigan, and the Court below assumed the point. Since the defect may be cured by amendment, and nothing is to be gained by sending the case back for that purpose, we shall consider the amendment made, and dispose of the case.

The Dismissal of the Parties Bound Severally and, Therefore, Not Indispensable, Was Not Error and Did Not Affect the Verdict.

In *Horn v. Lockhart, 17 Wallace, 579*, your Honors said:

> "When objection is taken to the jurisdiction of the Court by reason of the citizenship of some of the parties * * * and a decree without prejudice to their rights can be made, the jurisdiction of the court should be retained and the suit dismissed as to them."

Thomas v. Anderson, 223 Fed. Rep., 43.

Mason, et al., v. Dullingham, et al., 87 Fed., 689.

Grove v. Grove, 93 Fed., 867.

Ladew v. Tennessee Copper Company, et als., 179 Fed., 255.

Clark v. Chicago M. & St. P. Ry. Co., 11 Fed., 355.

See also *Fed. Rep. Dig., Vol. 2, Col. 3000, verbo Courts, Sec. 88; Ib., Vol. 6, p. 1876; verbo Courts, Sec. 318; Ib., Vol. 10, p. 347; Ib., Vol. 13, p. 432.*

In *Grove v. Grove, 93 Fed. Rep.*, the Circuit Court of Appeals said:

> "The retention of jurisdiction by the dismissal of indispensable parties is now a matter of every day practice. The power to

make dismissals and amendments for that purpose was settled long ago by Chief Justice Marshall."

In *Delaware Co. v. Frank, 110 Fed., 694*, the Court said:

> "Defendants contend that the bill cannot be dismissed as to any defendant not within the jurisdiction of the court without a *dismissal of the bill as to all defendants.* * * * An examination of the authorities convinces me that it *is well settled* that jurisdiction may be retained over defendants as to whom a diversity of citizenship exists, and a dismissal of the complaint may, and in proper cases will, be permitted against defendants who are not found to be within the jurisdiction of the Court, unless such defendants are indispensable to an entry of a decree against the remaining defendants and when it may be done without prejudice. Horn v. Lockhart, 17 Wal. 570; Oxley Stave Co. v. Coppers' International Union, 72 Fed., 695; Mason v. Dullingham, 82 Fed., 639; Grove v. Grove, 93 Fed., 865; Smith v. Oil Co., 86 Fed. 359."

In Clark v. R. R. Co., 11 Fed., 358, the Court said:

> "The plaintif brought his action against both the resident and non-resident defendants sounding in tort. Each defendant was liable as a wrongdoer if the defendant proved his case, and the controversy was severable."

In the case of *Mason v. Dullingham, 87 Fed., 689,* the Court held:

> "This action was joint and several and if the court below erred in its rulings the error was cured by the dismissal of King from the suit *after verdict and before judgment.* * * * Here the interest of the defendants were severable and the plaintiff had the right *at any time before judgment* to dismiss as to either defendant. Having dismissed as to those defendants over whom it is said the Court had had no jurisdiction notwithstanding the appearance, its jurisdiction cannot be impugned by the plaintiff in error here, as to whom the necessary diversity of citizenship existed, so that the jurisdiction of the Court over them is undoubted."

> "Plaintiff may amend by striking out or transposing parties whose presence on the record as the suit was brought would oust jurisdiction of the Court."

Corpus Juris, Vol. 25, Sec. 94, page 780.
McEldowney v. Card, 193 Fed., 475.

This rule applies only to parties who are dispensable and severally bound and not to indispensable parties. It applies only to parties against whom a separate suit might have been maintained independently of the others.

Judge Dawkins of the District Court, eminent jurist, ex-Associate Justice of the Supreme Court of

Louisiana, in the course of his opinion denying a new trial, said:

> "There is no doubt but that the action against the several defendants was and is severable. It is one in tort under Art. 2315 of the Revised Civil Code of Louisiana as to which it has been repeatedly held, in fact, has never been disputed that a plaintiff may sue one or more joint tort feasors without regard to the others, or having obtained a judgment against all may execute against one of them alone, and if they all be at fault neither has any recourse against the other, who is made to pay. It has also been held in some of the cases above cited (Mason v. Dullingham) that the dismissal may be made after verdict and before signing of the judgment. No authority to the contrary has been cited by the defendant."

Nor was the Great Southern Lumber Co. prejudiced by the dismissal of the five co-defendants on the ground argued by the defendant that the testimony of these defendants would have been given greater weight by the jury had they not been parties to the suit.

District Judge Dawkins ably refuted this point; speaking of these co-defendants, he said:

> "Most, if not all, (co-defendants) declined to answer certain questions as to their participation in the shooting which resulted in the death of plaintiff's husband, under their constitutional right to refuse to answer any question which might incriminate them, or

be used in a criminal prosecution, and the evidence otherwise showed that they, or most of them, were present, armed and participated in the undertaking which resulted in the death of Williams. The main question which the jury had to decide was as to whether the persons who visited Williams' place were engaged in the discharge of a *bona fide* and honest effort as officers of the law, to execute a valid warrant, or whether they were in reality helping the defendant, the Great Southern Lumber Company, to combat an attempt to organize and unionize the employees of that company."

Nor could the testimony of these tort feasors have been given greater weight, for, being severally bound with plaintiff, they would have still been interested witnesses although not defendants.

II.

The Exclusion of Statement of O'Rourke and Bouchillon, Not Error.

The Court of Appeals based its reversal on two errors. The first error, upon the ground that defendant had predicated its defense on showing that the posse which went to Williams' house had been legally created and was bent on serving the warrant of arrest with no ulterior motive, and, for that reason, the defendant was entitled to show that there was need of a number of officers instead of a single one to safely accomplish the arrest. Whose arrest?

Not Williams', for he was not charged with any offense and there was no warrant for his arrest. There was no justification, therefore to appoint a posse for his arrest, nor was there any need of a posse, since he was not to be arrested. Hence, the evidence as against plaintiff was not relevant.

If Judge Beattie had admitted the evidence on the ground that as against the plaintiff it was part of the *res gestae* as tending to show the need of a posse to arrest Williams, against whom no warrant of arrest had been issued, the ruling would have clearly been erroneous. The proposition is, we think, too simple for argument.

But, conceding that it was error to exclude the evidence even as against the plaintiff, although the remarks or words were uttered in Williams' absence and were clearly hearsay and irrelevant as to plaintiff, but conceding that they were relevant, and assuming that the posse was needed to safely accomplish the arrest and had been legally constituted, the exclusion of this evidence could not affect the substantial rights of the defendant, because the real and material issue before the jury was not whether a posse was needed to make the arrest, but whether the intrinsic character of the so-called posse, its extraordinary number, viz., 75 men armed with pump and shot guns and rifles, to arrest three men, its composition, viz., mostly officers and employees of the defendant, and summoned by the blowing of the defendant's mill whistle, what that posse did, its conduct, its achievement, the wholesale killing of those whom it went to arrest, did not reveal the so-called posse to have been not a

lawful posse, but a mob, which, under the guise and cloak and mask of a regularly appointed posse of special officers, were merely a mob of 75 armed men acting as the officers and employees of the defendant company within the scope of their employment, for the benefit of the defendant, bent, not on arresting, but on killing, Williams, Bouchillon, O'Rourke and Dacus, in order to remove them from the sphere of activity as organizers of the Labor Union, both white and colored, in order to destroy organized labor in Bogalusa.

Hence, the evidence which was excluded was immaterial and harmless and could not affect the substantial rights of the defendant, because an examination of the entire record will reveal that it was the intrinsic character of the posse, its composition and what it did, the malicious killing of Williams, Bouchillon and O'Rourke, and two others, and the destruction of labor in Bogalusa, which determined the verdict, regardless of whether the posse was needed to make the arrest and had been legally appointed.

The evidence shows that the mob was composed of about 75 men, heavily armed with rifles, pump-guns, double barrel shot guns loaded with buckshots, (R. 211-331-400-401-404-76-77-78-610-662-71-74-77-734-47-60-823-37-43-53-85-871-997); that they killed Williams, Bouchillon, O'Rourke, Gaines and Richeau without provocation. (R. 163-64-65-67-69; 214-15-97-98-99; 301-2-3-39-42-54-58-60-66-88-94-95-97; 400-1-2-18-19-48-76-77-79; 650-824-825-180-595-604-39-53-747-48-215-16-271-310-316-362-376-388-438-453-625-626-1001-613-647-48-883), and that the walls of Wil-

liams' office were riddled with buckshots. (R. 297-397-398-589).

The motive for the killing is shown by the testimony of W. H. Sullivan, general manager of defendant company, and, at the same time, Mayor of the Town of Bogalusa (R. 954), viz:

> Q. Did they suggest they were going to organize the colored labor?
>
> A. They said they had it in mind the first time, and we discussed it and I told them, as far as I knew conditions in the South, it would be a great mistake. The next time they came to see me, they said they had gone a little further and felt they could not make very much progress among Southern saw mills, unless they organized negro labor. I told them I feared if anything of that kind was attempted, it would probably create trouble of some kind.
>
> Q. You had reference to race trouble?
>
> A. Yes, sir.
>
> Q. How many negro laborers did you employ at that time?
>
> A. Well, at that time, we were employing, I think, about 2500 men, and about, as I recall it, about sixty per cent of them were darkies.

Among those who were in the mob were Major Guerre, manager of the defendant's lumber plant;

Paul LeBlanc, assistant manager of the plant, and foreman of the company; Dr. Brister, superintendent of the company's hospital; McElroyd, Wiley Magee and Bob Carson, guards of the company; Geo. Townsen, sales manager; Mr. Hold, employee of the company. (R. 163-64-74-99-217-18-27-318-21-22-34-36-39-44-45-95-96-400-1-4-50-52-53-76-88-89-93-94-95-466-613 616-621-22-25-28-29-83-84-721-928-29-32-281-360-998 999-1027-28-29-32-35-36 and 37).

Major Guerre, manager of the plant, and Jack Cassidy, assistant general manager, admitted that they were the ones who gave orders to blow the company's siren whistle as a special "riot signal" for the assembling of the mob, which, after having been assembled, proceeded in a large body directly to Williams' home to "intimidate" him. (R. 581-83-84-86-603-18-19-20-21-25-26-27-28-700-90-993-1001).

Hence, the instrinsic character of the posse and the horrible slaughter which resulted, revealed clearly to the jury the ulterior motive, so that the question whether there was need of a posse and whether it was legally appointed, became utterly immaterial.

III.

The Admission of Carson's Statement, Not Error.

The Court of Appeals based its reversal for the second alleged error upon the ground that Carson's statement "that they had come to kill Williams and had killed him," was hearsay and not part of the *res gestae.*

Our contention is that Carson's statement was admissible on all or any one of these several grounds:

(a) As a spontaneous declaration and, therefore, an exception to the hearsay rule.

(b) As an admission of an agent in the performance of his duty within the scope of his employment.

(c) As an admission by a co-conspirator or joint tort feasor in connection with the conspiracy and before the conspiracy had come to an end.

(a)

The evidence tended to show that Carson's statement was a spontaneous exclamation at a time when he did not have the opporunity to think or reflect; it was a spontaneous response to the actual sensation produced by the shock of the terrible slaughter and shooting, for the bodies of the murdered men were still lying where they had fallen, and Carson was on the scene of the killing, on the property of the deceased, heavily armed, his co-conspirators and co-tort feasors being also present and armed. (R. 484).

The principle applicable is expressed in *Wigmore on Evidence, Vol. 3, Sec. 1747*, thus:

> "Since this utterance is made under the immediate and uncontrolled domination of the senses, and during the brief period when considerations of self-interest could not have been brought fully to bear by reasoned reflection, the utterance may be taken as particularly trustworthy (or, at least, as lacking the usual grounds of untrustworthiness),

> and thus as expressing the real tenor of the speaker's belief as to the facts just observed by him; and may, therefore, be received as testimony to those facts."

Nor is this rule limited by time, for it is immaterial whether the statement be made one minute or twenty minutes after the accident, the sole question being whether the party making the statement did so under the excitement of the moment.

Corpus Juris, "Evidence," Sec. 539, p. 450.
Insurance Co. v. Mosley, 8 Wal., 407.
Beaver v. Taylor, 1 Wal., 542.
Quote *Jack v. Insurance Co., 113 Fed., 54.*

In *Missouri R. R. Co. v. Anderson, 198 S. West Rep.*, the Supreme Court of Texas said:

> "Questions of this kind must largely be left to the sound judicial discretion of the trial Judge who is compelled to view all the circumstances in reaching his conclusions and this Court will not reverse his ruling."
>
> *Corpus Juris, Evidence, Sec. 533, p. 448.*

(b)

There was affirmative and circumstantial evidence tending to show that Carson was an employee of the company, and the failure of the defendant to produce the payrolls which were called for by plaintiff by *subpoena duces tecum*, because they have been detroyed by defendant after the filing of this suit, is presump-

tive evidence tending to show that if the payrolls had been produced they would have revealed that Carson was an employee. The question whether he was an agent of defendant acting within the scope of his authority was, however, for the jury. (R. 63-485-88-89-279-80-81-94-864-65).

Jones on Evidence, R. E 536.

(c)

There was evidence tending to show that Carson was a co-conspirator and that the conspiracy was not ended, because Carson was still on the premises heavily armed as a guard and was keeping disinterested parties from coming in and, as such, manifestly keeping out disinterested witnesses who might be used as valuable witnesses against the Great Southern Lumber Co. in any damage suit resulting from the killing. (R. 864-871).

There was evidence tending to show that some of the conspirators were actually placing guns and ammunition in Williams' office to make it appear that Williams and his associates were prepared to resist them, and Carson was stationed as a guard for the purpose of stopping any outsider from entering the premises. (R. 478-79).

Hence, the statement was admissible as evidence not only upon one ground, but upon three grounds, one of which alone was sufficient.

But, assuming and conceding, *arguendo*, that the admission of the evidence was error as being hearsay, it could not possibly affect the substantial rights of

the defendant, because it added nothing at all to what the jury already knew. The jury knew that Williams had been killed; they knew that the mob had no warrant for his arrest, and, therefore, that they had not come to arrest him, but they knew that the mob had killed him, and they knew of the circumstances attending the killing, and since he was not to be arrested the presumption to kill him arose necessarily from the killing and the extraordinary circumstances surrounding the killing. Hence, the evidence was immaterial and harmless.

The Judgment of Reversal Was Contrary to the Weight of Authorities.

It is indisputable that the burden of proof to show prejudicial error from the whole record was upon plaintiff in error.

Armstrong v. U. S., 16 Fed. (2), 65.
Shuman v. U. S., 16 Fed. (2), 457.
Haywood v. U. S., 268 Fed., 795.
Simpson v. U. S., 289 Fed., 188.
Rich v. U. S., 271 Fed., 566.
Horning v. Dist. of Col., 254 U. S., 135.
Parker, et al., v. Elgin, 5th Fed., 2nd Series, p. 562; C. C. A., 6th Circuit.
Mitchell v. Pittsburgh Rd. Co., 13 Fed., 2nd Series, p. 704.

The trial of this case lasted more than ~~four~~ two weeks. A great mass of evidence was taken and a wide range of inquiry covered. Your Honors have said in *U. S. v.*

Trenton Potteries Co., decided February 21, 1927, *47 Sup Ct. Rep., p. 382:*

> "In such a case a new trial is not lightly to be ordered on the grounds of technical errors in ruling on the admissibility of evidence which do not affect matters of substance."

(IV)

The Denial of the Motion to Direct a Verdict Was Not Error.

Under the jurisprudence *(vide Simkins*—a Federal Suit at Law, p. 123), the three following rules are controlling:

> *First:* If the plaintiff has introduced evidence bearing materially on the issues, which would be sufficient, if uncontradicted, to sustain a verdict, then no amount of contradictory evidence would justify the Court in taking the case from the jury and instructing a verdict.
>
> *Rockford v. Pennsylvania Co., 174 Fed., 81.*
>
> *Robinson v. Van Hoosen, 196 Fed., 625.*

> *Second:* Where the evidence is of such a character that reasonable men would differ as to the conclusions to be drawn from it.
>
> *Louisville & N. R. Co. v. Roberts, 177 Fed., 923, 924*, and cases cited.

Columbia Box & Lumber Co. v. Drown, 156 Fed., 459.

Penn Mining Co. v. Jarnigan, 222 Fed., 889.

Third: The mere fact that there is a preponderance of evidence on one side or the other, in favor of the party moving for a verdict, does not require the judge to take the case from the jury, even though it might justify a new trial, because of the preponderance of evidence against the verdict.

Rockford v. Pennsylvania, 174 Fed., 81.

City & Suburban R. Co. v. Svedborg, 194 U. S., 201.

Mt. Adams & E. P. Inclined R. Co. v. Lowery, 74 Fed., 463.

Chicago, M. & St. P. R. Co. v. Anderson, 168 Fed., 901.

Wood v. Petroleum Co., 294 Fed., 733.

Washington Gas Light v. Landsden, 172 U. S., 545.

Parsons v. Froridge, 226 Fed., 18.

District Judge Beattie, who presided at the trial during ~~four~~ five weeks, was convinced that plaintiff had introduced evidence bearing materially on the issues which was sufficient to sustain a verdict, since he denied defendant's motion for a directed verdict.

District Judge Dawkins, before whom the motion for a new trial was argued, was also of the same opinion and so expressed himself and he denied defendant's motion.

The Circuit Court remanded the case upon technical grounds relating to the admission and rejection of evidence, thereby indicating that the District Court had not erred in denying the motion for a directed verdict.

Counsel for defendant were also of the same opinion, since at the close of plaintiff's evidence, they did not request a directed verdict, but, on the contrary, introduced numerous witnesses in rebuttal of plaintiff's evidence.

The question whether plaintiff introduced sufficient evidence bearing materially on the issues must be answered by propounding four other questions:

(1) Whether there was sufficient material evidence tending to show that the killing was unlawful.

(2) Whether there was sufficient material evidence tending to show that the killing was a result of a conspiracy.

(3) Whether there was sufficient material evidence tending to show that the Great Southern Lumber Co. took part in the conspiracy.

(4) If there was no conspiracy, whether there was material evidence tending to show that the officials, superintendents, agents and employees of the company, acting in the course and within the scope of their employment, participated in the killing or encouraged, aided and assisted it.

(1)

The record shows that there was abundant material evidence introduced by plaintiff tending to show that Williams was at his typewriter, got up, went to the door and asked what the mob wanted, and that immediately Magee shot him, killing him instantly, and immediately there was a volley of shots fired by the mob and five men were killed. Test. Sumrall, R. 234, Bourgeois, R. 297, Garner, R. 339, James Williams, R. 164, Mrs. Melancon, R. 408, Mrs. Williams, R. 467, McAllister, 397.

(2)

The evidence was overwhelming tending to show that the unlawful killing was the result of a conspiracy, since there were seventy-five men heavily armed with rifles, pump-guns, shot guns, and they were summoned by the blowing of the siren whistle of defendant's mill according to a pre-arranged plan. "A conspiracy is a combination of two or more persons by concerted action to accomplish a criminal or unlawful purpose or to accomplish some purpose not in itself criminal or unlawful, by criminal or unlawful means." "Concert of action is a conspiracy if its object is unlawful."

Duplex Printing Press Co. v. Deering, 254 U. S., 443.
Truax v. Corrigan, 257 U. S., 312.

(3)

Did the Great Southern Lumber Co. participate in this conspiracy?

The evidence shows that the Great Southern Lumber Co. committed the first overt act in the plan of the conspiracy in order to carry out its purpose to unlawfully kill Williams, viz., it blew its siren whistle to summon the members of the conspiracy to the City Hall, so that they might go to Williams' office in a body and kill him, for there was not a warrant for Williams' arrest.

There was evidence tending to show that Jules LeBlanc, a member of the mob and of the conspiracy, who was seen standing with a shot gun next to Magee, when Magee killed Williams, and when the volley of shots was fired into Williams' office, was the one who was sent by the Chief of Police to the company's mill to ask Guerre, the superintendent of the mill to blow the siren whistle, and, immediately after the blowing of the whistle, that Guerre was seen among the mob at Williams' place, with a gun in his hand when Williams was killed, R. 174, 211, 233, 239, 341, 349, 493, and that McElroyd, the watchman of the Great Southern Lumber Co. was there with a gun, R. 488, and so was Paul LeBlanc, assistant superintendent of defendant company and that when the whistle blew a number of men were seen running into the stockade around the mill property of defendant. R. 361.

The evidence shows that Sullivan was president and general manager of the defendant company and simultaneously Mayor of the Town of Bogalusa, chief executive officer of both, and that the company prac-

tically owned and controlled the entire municipality of the Town of Bogalusa, so that it is beyond human credulity that he should not have known that the siren whistle was to be blown and the awful purpose for which it was to be blown.

There was evidence tending to show that at one o'clock p. m., an unusual hour, Sullivan was engaged in playing a game of golf and that he heard the siren whistle of his company's mill; that he was not surprised, made no inquiry, either by phone or otherwise, as to why the alarm whistle was sounded, but calmly continued his game, the irresitible inference being that he knew that the armored men were to be assembled by the blowing of the whistle and that they were going to Lem Williams' home to kill him, together with the other three Union labor leaders who were in Williams' office.

There was evidence tending to show that there was no personal animosity on the part of the members of the mob nor of the special police officers against Williams, but that the destruction of the Labor Union, both black and white, in Bogalusa which was in the path of the Great Southern Lumber Co. was the only motive for the killing of Williams and the other Labor Union leaders. K. 190-595-604-34-53-747-48

There was evidence tending to show that at the time of the blowing of the whistle there was no fire, no emergency, no riot; so that the blowing of the whistle was manifestly the call of the master, the Great South-

ern Lumber Company, and was not only a signal for the assembling of the so-called posse at the City Hall, but it was evidently a guarantee that, as the deed which was going to be done was solely for the benefit of the Great Southern Lumber Co., the company would protect them from prosecution and hold them harmless.

The evidence shows, as Judge Dawkins said:

> "That the Self Preservation and Loyalty League had as one of its purposes, acquiesced in by the defendant lumber company and participated in by some of its employees, the promoting of the stand taken by the defendant company in its deal with the labor union."

There was evidence to show that Sullivan by his conduct and silence approved and ratified Guerre's action in blowing the whistle and all that had resulted from it; and that the Great Southern Lumber Company derived the full benefit of the killing of the three leaders, for it resulted in the complete destruction of organized labor in Bogalusa, which the evidence tended to show was the *sole motive* for the unlawful killing.

(4)

But if there was no conspiracy, there was evidence to show that defendant's agents, employees, superintendents and officials were present, assisting, aiding and encouraging in the unlawful killing within the course and scope of their employment.

But Article 2324 of the Civil Code of Louisiana provides as follows:

> "He who causes another person to do an unlawful act, or assists or encourages in the commission of it, is answerable, *in solido*, with that person, for the damages caused by such act."

There was evidence to show that Wiley McGee was a notorious gunman, employed by the Great Southern Lumber Company, during the trouble between the Union men and the Great Southern Lumber Company, and that Wiley McGee, while a special police officer, was paid by the defendant company. (R. 280-286-287).

The failure of the defendant company to produce its payrolls relating to the employment and payment of compensation to employees prior to and at the time of the killing, on the ground that according to its custom, it had destroyed the payrolls, which however were destroyed only after this suit had been filed, raises a presumption in favor of plaintiff, which is evidence. (R. 60-64).

There was evidence also tending to show that Wiley McGee was living in a house owned by the company and built for its employees. (R. 280).

In the case of *Cisco v. Looper, 236 Federal, 339*, the Court approved the following charge:

> "A person who is present at the commission of an assault and battery, and en-

courages and incites by words, gestures, looks, or signs, or by any other means, is 'aiding and abetting' the same, and is liable as a principal. You are then to determine, from all the facts and circumstances in the testimony whether these defendants, or any of them, encouraged and incited by words, gestures, looks or signs, or by any other means, the assault upon the plaintiff. The fact that a person is present at the commission of an assault and battery, or within a reasonable distance, so that he knows what is going on, without disapproving it, is evidence on which, in connection with other circumstances, it is competent for the jury to infer that he aided and abeted same."

There is evidence tending to show that besides Guerre and McElroyd and Wiley McGee, there were other members of the mob, employees of the defendant company, who took part in the unlawful killing, namely, Paul LeBlanc, assistant superintendent of the defendant company. (Tr. p. 175). Townsend, sales agent; Brister, employed in defendant's hospital, and Carson. (Tr. p. 485). When the whistle blew, a number of men were seen running into the stockade around the mill property of the defendant company. (R. 361). Another witness testified that when the whistle blew he saw a number of men coming out of the mill supply warehouse of the defendant company, inside of the stockade, armed with guns, and that they went out through the gates used by employees of the defendant company. R.1027-28-29.

There was evidence to show that Guerre, who was superintendent of the company, actually participated in the unlawful killing. (Tr. pp. 174, 211, 233, 321, 339, 341, 345, 396, 400, 401, 452, 466, 488, 489, 493).

The question before the jury was—not whether these men were employed to kill Williams—but whether the course and scope of their employment furnished the motive and purpose for the killing as distinguished from any personal and private animosity of their own.

Schultz v. Brown, 256 Fed., 190.

It was solely within the province of the jury to determine from all the surrounding circumstances whether these employees whose acts had caused damage—were acting within the scope of their employment.

In the case of *Schultz v. Brown, 256 Federal, 187, U. S. Circuit Court of Appeals, 9th Circuit*, the Court said:

> "We think this evidence was sufficient to take the case to the jury, and that it was for the jury to determine whether upon such evidence Heintz at the time he made the assault upon Brown, was acting within the scope of his employment, and not from any personal or private animosity of his own. * * * With respect to the course and scope of Heintz's employment, it is not claimed that he was employed to assault Brown. The claim is that the course and scope of his employ-

ment furnished the motive and purpose of the assault, as distinguished from any personal or private animosity of his own."

In *Goodman v. Traction Co., 175 Federal, 63*, U. S. Circuit Court of Appeals, 7th Circuit, Judge Lurton—the Court said:

> " * * * The liability and non-liability of the defendant turns upon the fact as to whether or not the inspector was acting within the scope of his employment when he made the assault. How that fact is, must be determined from the conflicting testimony and this is a special province of the jury."

The Special Officers—So-Called Posse—Were the Agents and Employees of Defendant.

If the unlawful killing was done by special officers commissioned by the City of Bogalusa, the plaintiff is not relieved from liability, because, as was said by Judge Dawkins, the evidence shows that the Self Preservation and Loyalty League had as one of its purposes, acquiesced in by the defendant lumber company and participated in by some of its employees, the promoting of the stand taken by the defendant company in its deal with the Labor Union.

Seymour v. Director General of Railroads, 290 Fed., 294, the Court said:

> "A railroad company employing a servant who happens to be a public officer, acquires no immunity from such employment.

Constables and policemen are often employed by corporations in the same capacity as Wheeler was. It is not beyond the province of a jury in such a case to find that the official acts of the employe are to be used for the benefit of the defendant and in protection of its interest and property, and in such a case the character of the servant's act is to be determined in the same way and upon the same principles as if he was not a public officer at all. If he acts maliciously and in pursuit of some purpose of his own, the defendant is not bound by his conduct; but if, while acting within the general scope of his employment, he simply disregards his master's orders, or exceeds his powers, the master will be responsible for his conduct.

"It was ruled that under the evidence it was a question for the jury whether Wheeler, when he fired the fatal shot, was acting as defendant's servant or as a public officer."

The evidence tended to show that one of the purposes of the League and of the special officers was to fight the battle of the Great Southern Lumber Company against the Labor Union, and the defendant company alleges in its answer (R. 21)—that it had applied for protection:

"For some time prior to the date alleged in the petition, various persons had unlawfully assembled in said city of Bogalusa, had threatened to commit, and had committed,

> breaches of the peace, and had trespassed upon and had made threats to destroy defendant's property. Defendant had applied to the authorities of said city for protection."

In the case of *Penn. Mining Co. v. Jarnigan, 222 Fed., 889*, the Court said:

> "If the guards acted within the general scope of their authority the company is responsible for what they did, although they acted wantonly. Denver & Rio Grande R. R. Co. v. Harris, 122 U. S. 597; Lake Shore R. R. Co. v. Prentice, 149 U. S. 101; Stewart v. Wright, 147 Fed. 321; Southern Express Co. v. Patton, 93 Fed. 936. When the evidence and circumstances are open to conflicting inferences, the question whether the acts were within the scope of the agent's authority is for the jury."
>
> *Penn. Mining Co. v. Jarnigan, 222 Fed., 889.*

Hence, even if there had not been a conspiracy, which, under the evidence is unthinkable, defendant would still be liable, for, according to its own defense and judicial admission, it sought in its fight against the Labor Union the co-operation of the town of which its own executive was the executive with full power, and, therefore, the so-called posse or special officers appointed by the town, who unlawfully killed Williams, or aided and assisted in killing him, were the agents and employees of the Great Southern Lumber Co., *pro hac vice*, and were acting in the course and within the scope of their employment for the sole and exclusive benefit

of the defendant company, and they carried out successfully the purpose of their employment for the killing of the three leaders destroyed the Union completely.

CONCLUSION.

We respectfully submit therefore that the judgment of the District Court is without error; that all of the exceptions interposed by defendant were without foundation; that there was error in the judgment of the Court of Appeals remanding this case for trial, and that this Court should reverse the judgment of that Court and affirm the judgment of the District Court.

Respectfully submitted,

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1927.

No. 252

MRS. L. E. WILLIAMS, INDIVIDUALLY, ETC.,
PETITIONER,

vs.

GREAT SOUTHERN LUMBER COMPANY,
RESPONDENT.

SUPPLEMENTAL BRIEF ON BEHALF OF PETITIONER.

POINT I.

The material issue is this: Was Williams killed unlawfully (without provocation at the time he was killed) or was he killed lawfully while resisting the officer in making the arrest of Dacus, Bouchillon and O'Rourke? That was the question which the jury had to solve.

If Williams was killed unlawfully, whether a posse was needed to make the arrest was manifestly immaterial, since a posse was appointed and killed him unlawfully. Whatever was said or whatever threats were made by Bouchillon and O'Rourke two hours before the killing and a mile away from the killing was also manifestly immaterial, since Williams was unlawfully killed.

But it is a fact that the trial judge allowed Witness Magee, chief of police, to testify that from the reports which he had received it was, in his judgment, advisable to appoint (a posse) special officers to assist the regular officers in the execution of the warrants (R., 142, 141, 143, 145). And he appointed them. Hence the jury had this evidence as to the need of a posse; the reason for judgment given by the circuit court, viz., the need of a posse, falls in the light of the record.

It will be noted, moreover, that there was no warrant for Williams' arrest; there could therefore be no need of a posse for his arrest.

The whole burden of opponent's argument and brief is to show that at some remote time, three weeks or a month, before the unlawful killing, Williams and the Labor Union had given provocation. But that was immaterial, since the issue is whether he was unlawfully killed on that day.

Point II.

If Williams was killed unlawfully, Carson's statement that the posse had come to kill him is manifestly immaterial, since he was killed unlawfully, the unlaw-

ful killing itself showing the intent and purpose to kill.

We respectfully submit, therefore, that the circuit court was in error on both points.

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(10008)

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IN THE

United States Supreme Court.

OCTOBER TERM, 1926

No. 1128

MRS. L. E. WILLIAMS, INDIVIDUALLY AND AS NATURAL TUTRIX OF HER MINOR SON, JOHN EARL WILLIAMS,

Petitioner,

versus

GREAT SOUTHERN LUMBER COMPANY,

Respondent.

BRIEF IN OPPOSITION TO THE PETITION FOR A WRIT OF CERTIORARI.

The Circuit Court of Appeals for the Fifth Circuit reversed the judgment of the District Court and remanded the case for a new trial in conformity with the opinion and with law. (R-1084.)

The decision of the Circuit Court of Appeals is based upon prejudicial error resulting from the exclusion of evidence which the Circuit Court of Appeals found should have been admitted and from the admission of

evidence which the Circuit Court of Appeals found should have been excluded. (R-1084.)

The opinion of the Circuit Court of Appeals is sound, is based upon well established rules of evidence and supported by authority. The prejudice to the respondent (defendant and plaintiff in error below) resulting from the exclusion and admission of evidence is patent from a mere reading of the opinion of the Circuit Court of Appeals. It is obviously unnecessary to advance any argument to sustain the Court's views.

The facts, as recited in the petition, are not supported by the record and are refuted by the opinion of the Circuit Court of Appeals. However, it will serve no purpose to encumber this reply with any discussion of facts —especially in a matter of certiorari where basic principles and not controverted facts control.

This Court is asked to grant the extraordinary writ of certiorari to correct alleged errors concerning the admission and rejection of evidence.

This Court has repeatedly and consistently laid down the rule that "writs of certiorari will not be granted except in extraordinary cases" (*American Construction Company vs. Jacksonville*, 148 U. S. 372), or "in cases involving questions of importance which it is in the public interest to have decided by the Court of last resort" (*Magnum Company vs. Coty*, 262 U. S. 159), or, "in cases where there is a real and embarrassing conflict of opinion and authority between the Circuit Court of Appeal (*Layne & Bowler vs. Western Well Works*, 261 U. S. 387); and then only after final judgment, except when delay would seriously affect the public interest." (*Forsyth vs. Hammond*, 166 U. S. 506.)

The petition assigns four reasons why the writ should issue in this case. We take them up in their order.

First: "WHETHER RICH AND POWERFUL CORPORATIONS IN THE SOUTH SHALL DESTROY ORGANIZED LABOR, BOTH BY WHITE AND COLORED, BY UNLAWFULLY KILLING THE LEADERS OF ORGANIZED LABOR UNDER THE CLOAK OF LAW WITH IMPUNITY AND WITHOUT COMPENSATION."

This assertion is not borne out by the record. Williams was killed by police officers, regular and special, of the City of Bogalusa who were in command of the Commissioner of Public Safety and who were in the discharge of their duty executing warrants of arrest issued by a competent court. Petitioner's effort to establish a conspiracy, and to connect the respondent with an alleged conspiracy, to kill Williams failed.

The Circuit Court of Appeals, after finding that respondent was prejudiced by the admission and rejection of evidence, justifying and requiring a reversal of the judgment, said (R-1090):

> "Upon a subsequent trial, the evidence may differ from that presented in this record and it is unnecessary to pass upon its sufficiency to establish either or both of the grounds of liability relied upon by plaintiff to connect the defendant with the killing of the deceased. We do not think the present record contains direct evidence of conspiracy between the defendant, through its agents and strangers to kill deceased."

And the Court also stated that there was no evidence to show that Guerre, an employee of the respondent and an alleged member of the posse, was acting within the scope of his authority as an agent of the company. (R-1091.)

Second: "WHETHER THE CONSTITUTIONAL RIGHT OF JURY TRIAL IN CIVIL ACTION SHALL BE SET AT NAUGHT BY TECHNICALITIES AND HARMLESS ERROR."

There is no invasion of the constitutional right of trial by jury. The case has been remanded to be retried by a jury. The Circuit Court of Appeals found that the trial judge erred in rejecting certain evidence which the jury should have had before it and in admitting certain evidence which was incompetent and should not have gone before the jury and that this respondent was seriously prejudiced by such rulings of the trial court. This respondent, equally with petitioners, has the constitutional right to a trial by jury but, in such trial, all evidence properly admissible must be placed before the jury and inadmissible evidence must be excluded. If the three judges of the Court of Appeals differ with the trial judge and find that he committed serious and prejudicial error in the admission and rejection of evidence, it cannot with reason be said that their action invades the constitutional right of trial by jury. One of the functions of the Court of Appeals is to determine whether the trial by jury has been properly conducted. If the appellate court finds that the trial judge erred and respondent was prejudiced by such errors, it was the duty and the function of the appellate court to set the judgment aside. It

is the province of the Court and not the jury to rule on evidence and the Court's error is not protected by the Constitution's guarantee of trial by jury.

Third: "WHETHER THE FUNDAMENTAL PRINCIPLES AND RULES OF EVIDENCE AND THE DISCRETION OF THE TRIAL JUDGE, WISELY EXERCISED, IN THE EXCLUSION AND THE ADMISSION OF EVIDENCE SHALL BE OBLITERATED."

The Circuit Court of Appeals has found that the trial judge committed error; that certain evidence should have been admitted and other evidence excluded and that serious prejudice resulted from these rulings. The trial judge had no discretion to be exercised, wisely or otherwise, in excluding competent evidence and admitting incompetent evidence. The Court of Appeals has not obliterated the principles and rules of evidence nor has it interfered with the discretion which the trial judge properly and lawfully had. The trial judge is not the final arbiter and his erroneous rulings in material respects cannot stand.

Fourth: "WHETHER THE ACT OF FEBRUARY 26, 1919, SHALL BE CONSTRUED MERELY AS DIRECTORY AND DISCRETIONARY AND NOT AT ALL AS MANDATORY."

The Circuit Court of Appeals has not departed from the requirements of the act; it has not reversed the judgment of the District Court for technical errors nor for defects which do not affect the substantial rights of the respondent. It shows in its opinion that the errors committed by the trial judge were grave and substantial and

that respondent has been seriously prejudiced. When the Circuit Court of Appeals reaches such a conclusion, it is obviously acting within the statute and not beyond it.

This case presents no feature which would warrant this Court in issuing the writ. The petition simply charges that the Circuit Court of Appeals erred in applying rules of evidence. If this case were here on writ of error, the judgment of the Circuit Court of Appeals should be affirmed on the face of the papers. The application for certiorari should be denied on the face of the petition.

Respectfully submitted,

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DELOS R. JOHNSON,
B. M. MILLER,
Of Counsel for Respondent.

FEB 28 1928
CHARLES ELMORE CROPLEY
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1927.

No. 252

MRS. L. E. WILLIAMS, INDIVIDUALLY AND AS NATURAL TUTRIX OF HER MINOR SON, JOHN EARL WILLIAMS,

Petitioner,

versus

GREAT SOUTHERN LUMBER COMPANY,

Respondent.

Original Brief of Great Southern Lumber Company, Respondent.

H. GENERES DUFOUR,
B. M. MILLER,
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Attorneys for Respondent.

February, 1928.

MONTGOMERY-ANDREE PRINTING CO. INC., 307 CHARTRES, N. O.

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IN THE

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MRS. L. E. WILLIAMS, INDIVIDUALLY AND AS NATURAL TUTRIX OF HER MINOR SON, JOHN EARL WILLIAMS,

Petitioner,

versus

GREAT SOUTHERN LUMBER COMPANY,

Respondent.

Original Brief of Great Southern Lumber Company, Respondent.

STATEMENT OF THE CASE.

This is a suit by Mrs. L. E. Williams, individually and as tutrix of her minor child, for damages resulting from the killing of her husband, father of the child, on November 22, 1919. The original petition, filed November 6, 1920, set out that the deceased was killed by a "band of gunmen" who were maintained by the

Company, and that in killing Williams they acted within the scope of their authority as agents and employees of the Company. An exception of no cause of action was filed and subsequently maintained by the Court with leave to amend. See discussion, post page 64). An amended and supplemental petition was then filed in which it was charged that the deceased met his death at the hands of these gunmen who acted in execution of a conspiracy among the Company, its employees and strangers to kill Williams or that Williams was killed by these gunmen acting within the scope of their authority. A second supplemental petition was filed making five certain alleged employees co-defendants, who were citizens of Louisiana. It turned out that four of these five were local merchants. These five co-defendants were dismissed on plaintiff's motion when a question of jurisdiction arose. The suit was filed November 6, 1920. The trial in the District Court began on April 20, 1925, and a verdict was rendered in favor of plaintiff May 5, 1925, for $50,000.00. On motion for a new trial the District Court ordered a remittitur to $30,000.00, which was thereafter entered by plaintiff. A writ of error was taken from the Circuit Court of Appeals for the Fifth Circuit. That Court reversed the verdict and judgment and ordered a new trial. *(17 Fed. Rep. (2d) 468).* Application was made to this Court for a writ of *certiorari.* The application was granted and the case is now before the Court for review.

In the opinion of the Circuit Court of Appeals *(R-1084, Fed. Rep. (2), Vol. 17, 468)*, Judge Grubb,

as the organ of the Court, summarizes the facts as follows:

> "This was an action for damages, brought in the District Court by the defendant in error (as plaintiff) against the plaintiff in error (as defendant), arising out of the alleged unlawful killing of the husband of the plaintiff and the father of her minor child, in whose behalf she sued as tutrix. The deceased husband and father was killed on his own premises by a policeman of the City of Bogalusa, on November 22, 1919, under the following circumstances:
>
> "The defendant had been for many years operating a sawmill in Bogalusa, and employed in it some 2,500 men, white and black. Friction had arisen between the defendant and its employees some months before the deceased was killed. There was no strike in force, but a shut-down, due to an accident to defendant's machinery, had thrown the defendant's employees, except its millwrights, out of work, and they had been idle for some weeks before deceased was killed. During this period, troubles had arisen between the workmen of defendant and itself and with the municipal authorities of Bogalusa. On one occasion, prospective employees of the defendant, arriving at the railroad station at Bogalusa, had been forced by laborers to re-enter the train from which they had debarked and to leave Bogalusa. On another occasion, certain laborers had been put in

jail, and a crowd of their sympathizers had threatened to effect a jail delivery. There had also been disorders at meetings of the Bogalusa city commission at various times.

"Due to these occurrences additional paid policemen had been employed by the city, and a voluntary citizen police force had been organized and sworn in by the city, and had been actually called into service upon one or more occasions before the killing of the deceased. At the defendant's sawmill, there was a whistle used during the operation of the mill, to notify its employees when quitting time had arrived. The commissioner of public safety of Bogalusa had arranged with the superintendent of the defendant that, in case of disorder and the need to call upon the voluntary police to quell it, the whistle should be sounded to notify the voluntary police to assemble at the city hall. The signal had been used for that purpose by the defendant's superintendent at the request of the municipal officers before the killing of deceased. On the day before the deceased was killed, a warrant for one Dacus, a negro, had been issued by the city on a charge that he was a dangerous and suspicious person. Dacus was not found at his home on the day the warrant issued. On the morning of the succeeding day, Dacus, in company with two labor sympathizers, both armed with shotguns, and with Dacus between them, walked down Columbia Street in Bogalusa in a public way,

and were seen to enter the premises of Lem Williams, the deceased, who was the president of Trades Council.

"The chief of police of Bogalusa was notified by a policeman and by others that Dacus had been seen on the street in company with the labor leaders and had gone upon the premises of the deceased, Williams, with them. The chief of police then consulted with the commissioner of safety with reference to the situation, and the expediency of summoning the special and voluntary police to help execute the warrant on Dacus, and also warrants which were then issued for the two labor leaders. It was decided that it would be best to summon special officers to make the arrests. The special officers were to be summoned by the mill whistle, and word was sent to the superintendent of the mill to that effect. The superintendent caused the whistle to be blown to notify the special officers to report at the City Hall. Upon their assembling there, together with one Magee, who was a paid officer of the city to whom the warrants were given for execution, they went in company with the commissioner of safety to the premises of the deceased for the purpose of making the arrest. There were about 75 men in the party.

"The evidence was conflicting as to how many were employees of defendant. The superintendent of the defendant was there, but whether he was armed or not was in dis-

> pute. The facts as to what transpired after the party had arrived, and while the warrants were being executed, were in conflict. The witnesses of the plaintiff testified that the deceased and others were killed by members of the party without warning or provocation. The witnesses of the defendant testified that the deceased, Williams, was notified that the purpose of the visit was to serve warrants on Dacus and the two labor leaders, and that deceased was called upon to put down a pistol, which he had, and permit the arrest to be made, and that he refused to do so; that a shot was fired from the inside of the office, at the door of which the deceased was standing; and that it was then only that the arresting party fired, killing the deceased and others."

The following facts, supplementing the statement of the case by the Circuit Court of Appeals, appear undisputed on the record:

The City of Bogalusa, at the period in question, had a population of about 16,000 people, of whom 2500 were employed in the operation of the plant of Great Southern Lumber Company, sixty per cent of which employees were colored. (R. 954).

There were other industries in Bogalusa employing large numbers of men, among them Bogalusa Paper Company, Baer Hardwood Company, Colonial Creosoting Company and General Box Company. Bogalusa was also the headquarters of New Orleans Great

Northern Railroad Company, where its shops employing a large number of men were located.

In the year 1919, W. H. Sullivan was Vice-President and General Manager of Great Southern Lumber Company and its chief officer in Bogalusa; he was also the Mayor of the City of Bogalusa and had been Mayor since the organization of the city. J. H. Cassidy was Assistant General Manager of the Company. E. R. Cassidy, his brother, was City Commissioner of Finance and Acting Mayor in the absence of the Mayor; he was the Claim Agent of the New Orleans Great Northern Railroad Company. J. B. Lindsley was Commissioner of Public Safety; he was President of the Washington Bank & Trust Company, an independent bank and a competitor in business of the bank in which the Great Southern Lumber Company was the largest stockholder. J. P. Starns was Commissioner of Education; he was engaged in the retail drug business. Joseph Ragan was Commissioner of Improvements; he was a labor leader. None of these officials, with the exception of the Mayor, had ever been employed by the Great Southern Lumber Company, and it appears that the commissioners were elected on a ticket which was in opposition to the ticket supported by the officials of the Great Southern Lumber Company at the general election.

L. E. Williams (called "Lem" in the record), plaintiff's husband, was the president of the local labor union; he operated a garage and repair shop in the eastern part of Bogalusa, known as Columbia Road.

Some time prior to July, 1919, Lem Williams and one Donnelly, a labor organizer, called on Mr. Sulli-

van on two or more occasions and informed him of their desire to organize the company's labor (R. 952, etc.), meaning that the company should make a contract with the labor unions whereby the unions would name the persons to be employed by the company and, through the officers and committees of the union, settle grievances between the company and its employees; in other words, that the company's plant should be operated as a "closed shop" (R. 958). A committee of the union also called on Mr. Sullivan and made similar demands. (R. 959).

Mr. Sullivan replied that the company would not consent to a "closed shop," but would continue to operate as an "open shop" and would employ its labor without discrimination against any man because of his connection with the union, his color or his faith; and he had notices posted in the company's plant to that effect (R. 959); testimony of Cassidy (R. 991).

Notwithstanding these discussions, which appeared to be entirely friendly, the evidence shows that no friction, as the Circuit Court of Appeals calls it, had arisen or existed between the company and its employees until shortly after the company's mill was shut down, following a serious accident to the machinery. The conditions of idleness, brought on by the shut-down, led to the widespread lawlessness which began immediately after the shut-down and culminated in the shooting which is the basis of this action.

The following excerpt from the testimony of Commissioner Cassidy, Acting Mayor of the City of Bogalusa in October and November, 1919, describes the conditions existing at that time (R. 899):

Q. In the absence of the Mayor of the City of Bogalusa, who is the acting mayor of the City?

A. The Commissioner of Accounts and Finance.

Q. Were you acting mayor of the city of Bogalusa at any time during October and November, 1919?

A. Yes, sir, all through October and the early part of November.

Q. What were the conditions that made you acting mayor?

A. Mr. Sullivan had gone north.

Q. Are you familiar with the conditions that existed in Bogalusa during the months of October and November, 1919?

A. I am yes, sir.

Q. Will you state what these conditions were, whether they were normal or abnormal, and in what respect?

A. They were very abnormal.

Q. In what respect were they abnormal?

A. A lot of men were not working themselves, and they tried to prevent other men from doing any work, and the town was in a turmoil.

Q. Were the meetings of the Commission Council peaceful and orderly?

A. They were not, no, sir.

Q. What conditions operated to make them not peaceful and orderly?

A. Well at every meeting of the Commission Council there was a crowd of boisterous men that came to make demands as to what they should do or should not do, who they should appoint, how the town should be run.

Q. Can you give us any instances of those gatherings, and what demands they were seeking to enforce through the Commission Council?

A. Yes, sir. We had during the month of October, we had meetings of the Commission Council two or three times a week, due to the abnormal conditions that then existed, and the leaders of the crowd, headed by Mr. Lem Williams, came there and made demands that the chief of police be recalled, certain men working for the city be turned out of their jobs, and men whom he and his crowd would select should be appointed in their stead.

Q. Do you recall whether the light and water system was operating continuously at that period?

A. It was not.

Q. When was the interruption, and what was it due to?

A. I don't recall the exact date, but I think it was some time in the early part of October, the Police Department reported to

me that the men working on the night shift of the Great Southern Lumber Company had been intimidated at the gate—

Objection: Mr. Higgins:

Now you are testifying what somebody told you; you were not present.

The witness:

I was not present.

Mr. Higgins:

Then I object.

Mr. Dufour:

It was reported to him, as mayor of the town, of a disorder that existed.

Mr. Higgins:

He should not be permitted to go into details.

The Court:

I think he had better not testify to any specific act; just the reports, and the result.

A. (Witness continuing). The result was that the town was without lights and water, and I called a special meeting of the commission council to devise ways and means to try to keep them going. At this meeting, Mr. Williams came with his crowd, and I appealed to him as a man, told him the condition that then existed in the city and would exist, and if that were allowed to go on, the children

and women would be suffering in a few days. He said that the only way he would consent to remedy the condition would be for him to select the men that were to go in there and operate this plant, the water and lights, and if the Great Southern Lumber Company was not willing to agree to that, they would all suffer together.

Q. Were any demands made with respect to the police force?

A. Absolutely. They first told us we had to get rid of the chief—that was one of their stipulations—otherwise they would recall the mayor and the commissioners, and if it was necessary to appoint additional police, they demanded that they have the right to select these men.

Q. You mean additional paid police?

A. Yes, sir, additional paid police.

Q. They wanted to have the privilege of selecting those men?

A. They did, yes, sir.

Q. What were the conditions that existed around the depot at that time of the arrival of trains?

A. The condition was, all men coming in there, millwrights to repair the mill that had broken down, they were met at the station by these men, who ordered them back on the train, threatened them with bodily harm if they didn't go back, compelled them to go back on the train and to leave the city.

Q. As acting mayor of the city, did you know of any armed men marching the streets?

A. I did. My office was right diagonally across from the depot. I saw the mob down there, and I went down and saw men with guns on their shoulders, and I took some of them up personally, took those men up to my office and remonstrated with them, and asked them for the sake of the women and children to be calm.

Q. Were Williams and his men satisfied with the personel by which you were operating your pumping stations and your sewerage system?

A. They were not. They said that the men down there were unsatisfactory to them, and they demanded the right to have them taken out and men put in whom they selected.

Q. Were these meetings peaceful and orderly meetings in which citizens—

A. They were not. The first meetings we had in October were absolutely dominated by these men; the Commission Council was at their mercy; we had to do pretty much as they told us to do. Later on, the citizens of the town, seeing the chaotic condition which the town had drifted into voluntarily came to me and offered their services.

Q. As special police?

A. Well, not as special police at first. I would like to go into details and explain just how that came about.

Q. Go ahead.

A. There was one meeting we had of the Commission Council—conditions just got so unbearable, I got up and told them personally I didn't propose to stand for it any longer, they were threatening me with recall and threatening the mayor with recall, and the prominent business men of the town approved of the stand I had taken, and the next day or the day after a committee came to my house and told me the business men of the town had banded themselves together to assist the city authorities in maintaining law and order during that troubled time. I asked them who comprised this Self Preservation and Loyalty League, as they called themselves, and they invited me to come down to the City Hall and see, and I went down there and I found lawyers and bankers and men engaged in commercial business, and they told me those were the men that had put themselves at the disposal of the city government. Someone suggested that they be sworn as special police, and I consented to that provided they would work under the direction and supervision of the chief of police, and they all agreed to that. They were sworn in verbally, and in order to have a record of the names of those who were special police, I asked our City Clerk, who was also a Notary Public to have each man sign an affidavit—I mean an oath of office.

Q. Did you take any advice as to what authority you had to do that?

A. I did. Conditions were getting so bad, I feared there was going to be bloodshed. First I wrote to the Governor, who was then Governor Pleasant, that the city authorities were unable to cope with the situation that then existed, and asked if possible to have some troops sent over there to maintain law and order, and I received a communication from his secretary, stating that the Governor was out of the state, and that as soon as he came back the matter would be brought to his attention. I waited a week or so and received no reply. I then went down to the City Attorney, who was Mr. Talley then and also the present City Attorney, and sought his advice, and he recommended that I appoint a number of additional police. I wanted to be absolutely sure of my ground, and I then went to the District Judge—

Q. Who was he?

A. The Honorable Prentiss Carter—he is still judge—and I explained the situation in Bogalusa to him, told him I had in mind appointing a number of additional police, told him that had been recommended by the City Attorney, and asked him if I had a legal right to do so, and he said yes, appoint as many as were necessary to maintain law and order, and also I went to the City Judge, who was Judge Ott, and he is the present City Judge, and he gave me the same advice, and

after I got that advice, I swore those men in as special police.

Q. And your purpose in swearing in those special police was to maintain law and order in the City of Bogalusa?

A. It was.

Q. Of which you were at that time the acting head?

A. Yes.

Q. You say that Williams and his associates would come there in crowds?

A. They did.

Q. To your meetings?

A. Yes.

Q. How many men would constitute those crowds?

A. I would estimate about three or four hundred.

Q. Were they an orderly crowd?

A. Not very, no, sir.

Q. What do you mean by "not very?"

A. Well, one fellow would get up and make a rip-roaring speech, to use a slang expression, and they would all applaud and stamp their feet, and it would be may be five or ten minutes before I could get order again, and then somebody else would get up and make a speech and tell what they were going to do with the different city officials, the Police Department and the mayor.

Q. Were any of the men at those meetings armed?

A. A number of the men had guns in their hip pockets, yes.

Q. Was that the exception or the rule?

A. It was the rule. I don't say they all had them, but I noticed a number of them did.

Q. Did you ever work for the Great Southern Lumber Company?

A. Never did, no, sir.

The regular police force of Bogalusa consisted of a chief and six men (R. 528), some on night duty.

J. P. Starns, Commissioner of Education and a member of the Commission Council of the City of Bogalusa, testified that the people "lived in hell for about 30 or 60 days; it was really dangerous for us to be out"; that armed men paraded through the streets and went to the colored quarters to compel workmen to join the Union; that any men who looked like workmen were not permitted to get off the trains; that Lem Williams and several hundred of his associates attended meetings of the Commission Council and so conducted themselves that it was impossible to carry on the meeting; that these men demanded that the lights and water be shut off and that Union men alone be permitted to run the water and light plant; that the police force be dismissed and be replaced by men named by Williams and his associates; that the police be required to report to Williams the name of any person arrested so that he might decide whether such person

should remain under arrest, and that unless their demands were complied with, the Mayor and Commission Council would be recalled. (R. 886).

H. J. Cowgill, a witness on behalf of defendant, testified (R. 789) that he was a contractor in the City of Bogalusa; that he had resided there for sixteen years; that he was not connected with the Great Southern Lumber Company; that everything was upset in Bogalusa and there was no law and order; that the Commission Council could not function, the City Government was at a standstill, and lights and water were out; that because of these conditions, he and other business and professional men of the town organized themselves into the Self Preservation and Loyalty League, of which he was chairman; that no Union men and no officials or employees of the Great Southern Lumber Company were permitted to join; that they trained their members as special officers so as to support and assist the Police Department; that their members were sworn in as special police officers and that he, as a member of this organization, responded to both calls for the assembly of the special officers, namely, the call when Williams and his associates threatened to storm the jail and the call when the special officers, under command of Commisisoner Lindsley, went to Williams' place to arrest Bouchillon, O'Rourke and Dacus.

The names and occupations of the many business and professional men composing the League appear throughout the record.

J. H. Cassidy, Assistant General Manager of the Company, testified (R. 990) that he was present on

various occasions in the month of October at the power plant of the company which furnished water and light to the City of Bogalusa, and which, during the period of the shut-down, was operated solely for this public purpose, and that Williams and his associates would congregate at the gates of the power plant "running the men off and stopping them from going into the power house at nights" (R. 995), and that on one of these occasions Williams came up with a crowd of thirty or forty of his associates and prevented the workmen from going into the power house, with the result that the city was without light and water; that, on this occasion, one of the workmen was shot and that, when the operations of the power and light plant were resumed after this temporary suspension, the company was compelled to permanently install the workmen in the power house and maintain them there continuously, so as to avoid the interruptions brought about by the interference of Williams and his associates. This testimony is corroborated by the testimony of several other witnesses.

There was a whistle on the company's mill, which, for a long time, had been used by the City Fire Department, by arrangement with the company, as a fire alarm. Lindsley, Commissioner of Public Safety, and Chief of Police Magee arranged with J. H. Cassidy, Assistant General Manager of the Company, to have this whistle blown as a signal for the assembling at the City Hall of the special police—members of the Self Preservation and Loyalty League, whenever their services were required by the Police Department. (R. 583, 993, 546).

This signal was given only on two occasions, on the date of the shooting and on another occasion several weeks prior thereto, when an armed crowd of union men and their sympathizers had assembled at the jail in an attempt to make a delivery of some of their friends who had been incarcerated. (R. 545, 583, 576).

These men were arrested and incarcerated under the following circumstances. It will be recalled, *supra*, page 12, that millwrights brought to Bogalusa to repair the breakdown in the mill, were forced by Williams and his associates to reboard the train and leave the city. A second attempt was made to bring millwrights to repair the mill. These millwrights were met at the train by a mob of armed men, led by Williams, and a disturbance ensued.

Some of the disturbers, including Williams, were arrested by the police and were placed in jail. Shortly thereafter, an armed mob congregated before the jail and demanded the release of the prisoners, threatening to forcibly effect their purpose if their demands were not complied with. (R. 584). The Chief of Police, being unable to cope with the situation with his regular force then on duty, caused the whistle to be blown as a signal for the summoning of the special police. (R. 545-546). The special officers responded to the signal in numbers and the disturbance was quelled without bloodshed. The prisoners were not released; they were tried and convicted and Williams and others paid their fines.

The Trial Court excluded the evidence of plaintiff's witness, Patrolman Flournoy, tending to show

that on one occasion several weeks before the shooting, when Flournoy had arrested one Tom Ezell, a union man, Lem Williams interfered and challenged the authority of the officer, threatened to burn the jail and do bodily injury to the officer if the prisoner was not released. (R. 506). Exception was duly noted, bill of exception reserved and taken (R. 1064) and error assigned. (R. 127).

There were no disturbances during the several weeks intervening between the date of this attempted jail delivery and the date of the shooting, November 22, 1919. On November 21, 1919, H. H. Wilcox, a merchant and property owner in Bogalusa, swore out a warrant for the arrest of one Sol Dacus, a colored laborer, as being a dangerous and suspicious character, under an appropriate city ordinance. A warrant for his arrest was issued and delivered by the Clerk of Court to the Police Department. (R. 153). Efforts were made to apprehend Dacus on the night of November 21st, but he could not be found. The Chief of Police instructed Patrolman Flournoy, a regular police officer, to arrest Dacus on sight.

On the morning of November 22nd, the day of the shooting, between eleven and twelve o'clock, Patrolman Flournoy saw Dacus on Columbia Road, the principal business street in Bogalusa, and a point distant from the Company's property. He was accompanied by two union men, Bouchillon and O'Rourke. The three men were walking on the sidewalk—three abreast—Dacus in the middle. Bouchillon and O'Rourke were armed with shot guns and were using loud, defiant, threatening and obscene language, directed at Patrol-

man Flournoy, as they passed him, and likewise directed at storekeepers and others as they passed on their march. Patrolman Flournoy was not permitted to say what these men said. Outside of the presence of the jury, the defendant spread on the record the nature and character of the testimony which it proposed to elicit from the witness, namely, the circumstances attending this march and the nature and character of the threats. It was there shown that the witness would say that Bouchillon and O'Rourke, in loud and audible voice proclaimed, as they passed Patrolman Flournoy and others in their march: "We would like to see any white s. b. who will come and take this man," or "We would like to see the eyes of any white s. b. who will touch this man."

Patrolman Flournoy, although under instructions from the Chief of Police to arrest Dacus on sight, refrained from doing so fearing for his life, as he stated. (R. 501). He waited until he saw the three men go into Williams' yard, whereupon he immediately telephoned police headquarters and advised the Chief of Police of what had happened. Citizens, who saw and heard the incident, likewise reported it by telephone to the Chief of Police.

The Trial Judge refused to permit Patrolman Flournoy and the Chief of Police to testify as to these facts. (R. 500, 529). Exceptions were duly taken and error assigned. (R. 1052, 1064, 1069, 123, 133, 134).

(It was useless to call other witnesses on this point in face of the Trial Judge's ruling).

Upon receipt of these reports the Chief of Police instructed his lieutenant to swear out warrants in the City Court against Bouchillon and O'Rourke, and this was done. The Chief of Police called up Commissioner of Public Safety Lindsley, advised him of the occurrence, and requested him to come immediately to police headquarters. The Commissioner repaired to police headquarters and, after discussing the matter with the Chief, it was decided that, in view of recent previous occurrences and with a desire to avoid trouble, it would be best to have these parties arrested by the Commissioner of Public Safety and the special officers, rather than to have the warrants served by the regular police force. (Testimony of Chief Magee, R. 535-541; testimony of Commissioner Lindsley, R. 585, 583).

The Chief of Police was not permitted to testify before the jury as to why he considered this course advisable and what reports he had received from Patrolman Flournoy and certain citizens concerning the acts of Bouchillon, O'Rourke and Dacus.

The Commissioner of Public Safety and the Chief of Police directed the whistle to be blown at the company's mill as a signal for the assembling at police headquarters of the special police officers. (R. 549-582).

This whistle was blown in accordance with an understanding previously had between the police authorities and the company that the whistle might be blown for the purpose of assembling the special police as occasion might require. (R. 545, 576, 583).

A number of special police assembled at the City Hall and, under the command of Commissioner of Public Safety Lindsley and with one regular police officer, W. C. Magee, who had the warrants, proceeded in automobiles to Williams' place. The force consisted of about twenty men, according to the testimony of Commissioner Lindsley, of whom Magee, Jules LeBlanc and six or seven others were directed by the Commissioner to make the arrest after the squad had arrived on the scene. (R. 585).

There is considerable conflict in the testimony between plaintiff's witnesses and defendant's witnesses and even as among plaintiff's witnesses as to what happened after the Commissioner and his officers arrived on the scene. Some of plaintiff's witnesses testified that the officers came into the yard, walked up to the office where Williams and his associates were, called Williams out and immediately shot him. The defendant's witnesses, on the other hand, testified that Williams came to the door of the office with a pistol in his hand, that Officer Magee told him they had warrants for the arrest of Bouchillon, O'Rourke and Dacus, and several times requested Williams to put down his pistol; that, thereupon, a shot was fired from the office in which Williams and his associates were congregated, wounding Special Officer Jules LeBlanc, and that, thereupon, the police officers returned the fire, killing Williams and others.

It is stated by some of plaintiff's witnesses, and by the Circuit Court of Appeals in its opinion, that the posse led by the Commissioner of Public Safety to Williams' place consisted of about 75 men. Doubtless

there was that number of people, or more, in and about the premises and the streets at the time of the shooting, or immediately thereafter, attracted by the arrival of prominent citizens armed and riding in automobiles, and by the shooting, but the testimony of the Commissioner, the Chief of Police, Patrolman Magee, and the members of the posse, all of whom were in the best position to know the facts, is to the effect that the posse consisted of between 15 and 20 men. (R. 551, 588, 635, 661).

The number of men in the posse may not be of any importance except to show that it was not a mob of 75, or more, as asserted by plaintiff, but a comparatively small body of citizens and officers who went on a mission that they thought would tend to preserve the peace and prevent armed resistance to the enforcement of legal process.

The evidence conclusively shows that Williams and his associates, including Bouchillon and O'Rourke, who had congregated in the small one-room office, were armed with shotguns, rifles and pistols and had considerable ammunition. (R. 774, 503, 554, 637, 710, 841, 845, 849).

The Circuit Court of Appeals reversed the verdict and judgment on the following grounds:

(1) That the Trial Court erred in excluding evidence to show that Bouchillon and O'Rourke were engaged in the commission of a crime and incitement to riot and that such testimony was material and its exclusion constituted prejudicial error.

(2) That the Trial Court erred in admitting testimony that one Carson, an alleged member of the posse, had stated to Mrs. Williams, after the shooting, that the posse had come to Williams' place for the purpose of killing him and that the admission of such testimony constituted prejudicial error.

The Circuit Court of Appeals, in its opinion, said that the District Judge denied the request of defendant for a directed verdict; that, as the evidence at a subsequent trial might differ from that presented in this record, it was unnecessary for the Court to pass upon its sufficiency to establish either or both of the grounds of liability relied upon by plaintiff to connect defendant with the killing, but that the Court did not find that the present record contained any evidence of a conspiracy between the defendant, through its agents and employees, and strangers to kill Williams or that any employee, who may have participated in the killing, was acting within the scope of his authority, express or implied. (Opinion, page 471, Fed. Rep., Vol. 17 [2d]).

ARGUMENT.

We will discuss the question arising on the record, based upon appropriate bills of exception and assignment of error, under the following heads:

(1) The District Court erred, as found by the Circuit Court of Appeals, in excluding the evidence relating to the threats and incitement of Bouchillon, O'Rourke and Dacus on their armed march on Columbia Road;

(2) The District Court erred, as found by the Circuit Court of Appeals, in admitting the statement alleged to have been made by Carson after the shooting;

(3) That the District Court erred in excluding the testimony as to Williams' attempt to interfere with the police officer in arresting Tom Ezell—the Circuit Court of Appeals having failed to take cognizance of this assigned error;

(4) That defendant's motion to direct a verdict in its favor on the whole record made after the conclusion of all testimony should have been granted, and the District Court erred in not granting same;

(5) That both the District Court and the Circuit Court of Appeals erred in overruling and not sustaining defendant's exceptions of no cause of action and prescription.

FIRST POINT.

The District Court Erred, As Found by the Circuit Court of Appeals, in Excluding the Evidence Relating to the Threats and Incitement of Bouchillon, O'Rourke and Dacus in Their Armed March in Columbia Road.

The petition and supplemental petition, together, assert that Williams was killed as the result of a conspiracy entered into between the company, its officers, servants and strangers, to kill Williams, and that he was killed in pursuance of that conspiracy and, furthermore, that Williams was killed by the agents and

servants of the Great Southern Lumber Company acting within the scope of their authority.

The defendant denied these allegations and set up that Williams was killed by peace officers of the City of Bogalusa, commanded by its Commissioner of Public Safety, in resisting this posse in the execution of warrants that had been issued for the arrest of Dacus, Bouchillon and O'Rourke, and that the company had no part in the issuance of these warrants or their execution.

The record shows that a condition of lawlessness had existed in Bogalusa during the latter part of the month of September and during the month of October; that Williams and his associates had interfered with and intimidated the workmen operating the power plant which furnished light and water to the city and its inhabitants; that millwrights brought to repair the damage to the company's property had been forced to leave the city on one occasion and had been unsuccessfully interfered with on another occasion; that an attempt had been made by the union men to effect a jail delivery of prisoners who had been arrested for interfering with these millwrights; that an incipient riot had ensued which was quelled without bloodshed by the special police; that Williams and his men had interfered with the official meeting of the Commission Council; that they had threatened and defied the public authorities; that armed men were parading the streets and creating disturbances; that conditions had become so aggravated that the citizens of the town had organized a Self-Preservation and Loyalty League, had tendered their services to the municipal authorities for

the enforcement of law and order, and that these services had been accepted by the Acting Mayor, after taking advice from the District Judge, the City Judge and the City Attorney, and they were only sworn.

The record further shows that conditions had quieted down in Bogalusa for several weeks prior to the Dacus-Bouchillon-O'Rourke incident and that, after the attempted jail delivery and the suppression of this attempt by the authorities, supported by the special police, no disturbance had occurred up to the incidents hereinabove set forth leading to the shooting.

A warrant had been issued for the arrest of Dacus on a minor offense and the regular policemen were instructed to arrest Dacus on sight after attempt had been made to locate him. On the morning of November 22nd, Bogalusa was at peace. There was no disturbance and had been none for several weeks. The Self-Preservation and Loyalty League, composed of the leading citizens of the community, had undoubtedly effected the purpose of its organization to maintain law and order.

Suddenly, the public authorities were challenged and the public peace broken by Dacus appearing on the principal street, walking between Bouchillon and O'Rourke, two union men, both armed with shotguns, who were engaged in defying the public authorities by proclaiming in a loud and audible voice that they would like to see the .... white man who would try to touch Dacus. These remarks were directed to Patrolman Flournoy, as well as to others. Patrolman

Flournoy, although instructed to arrest Dacus, refrained from doing so fearing, as he stated, that his life was at stake. He permitted these violators of the public peace and these inciters to riot to challenge his authority and the authority of the law. He watched to see where these men went and when he found that they had gone into Williams' place, he reported the incident to his Chief. Citizens who had heard these remarks likewise reported the incident to the Chief of Police. Excitement obviously followed from such a performance on the main street of a small town. All testimony as to the nature of these threats and the character of this unlawful procession were kept from the jury. Likewise, there was kept from the jury the testimony of the Chief of Police as to why they felt the situation so serious as to warrant the summoning of special officers to assist the authorities in effecting the arrest. On this material point, the Circuit Court of Appeals, in its opinion, said:

> "An important issue on the trial was whether the party, a member of which killed deceased, went to his premises to enforce the law as peace officers by the arrest of offenders, whom they believed were there, and against whom warrants were outstanding and in their possession, or whether they went there at the instance of defendant or its agents to unlawfully kill deceased to get rid of him. The defense of the defendant was predicated on a showing that the raid was in the interest of law enforcement, and the party or posse legally bent on serving the

warrants with no ulterior motive. Clearly in aid of this defense, defendant was entitled to show that an occasion had arisen and still existed calling for the enforcement of the law by the serving of the warrants for Bouchillon, O'Rourke, and Dacus, and the need for a number of officers, instead of a single one, to safely accomplish the arrest. If there had been a defiance of the law shortly before by Bouchillon and O'Rourke by threatening to protect Dacus by violence against arrest, this was a fact tending to show an occasion requiring the exercise of force to uphold the law and by a posse rather than by a single officer.

"The trial judge permitted evidence tending to show that Bouchillon and O'Rourke paraded Columbia street, armed and with Dacus between them; but the court refused to permit witnesses to testify to threats asserted to have been made by Bouchillon and O'Rourke to prevent Dacus' apprehension by violence, if necessary, upon the ground that it was hearsay and immaterial. The issue was whether or not such threats had been in fact made, and the testimony of witnesses, who heard them made, is not hearsay. The making of the threatening statements, and not the truth of what had been said by the makers, was the inquiry. Permitting the defendant to show the parading of the street, while denying it the privilege of showing the unlawful character of the parade by the ac-

companying declarations of the paraders, was less than half a loaf. Plaintiff contended, and the District Judge charged, that Bouchillon and O'Rourke had the right to bear arms in the public street. The pertinent fact, therefore, was not that they had borne arms, but their purpose in doing so. Crime or innocence was to be determined by their purpose. If they had no intent to defy the law and protect Dacus from it by violence, no crime was committed and no occasion for a posse to make the arrest existed. If their purpose was to intimidate the police by threats of violent protection of Dacus against arrest, then they were committing a crime and one which could only safely be met by the summoning of a posse. A posse was summoned, a member of it killed deceased, and defendant was sought to be held liable for his death upon the theory that the party was not a posse, but an aggregation of strong-armed gunmen, assembled by defendant to unlawfully remove deceased. The relevancy of any declaration of Bouchillon and O'Rourke that might serve to illustrate the character of their march with Dacus is clear, for it was the criminal character and not the march itself that would justify the issuing of warrants and the raising of a posse to execute them. The evidence rejected was neither hearsay or irrelevant. Its rejection was error, and the injury resulting to the defendant serious enough to require a reversal of the judgment."

The jury did not know of the threats and menacing attitude of these three men and of their declared purpose to resist arrest. The jury did not know that the Chief of Police and the Commissioner of Public Safety had information which indicated that resistance to arrest might be made and that, in order to execute the warrants and preserve order, it was necessary and advisable, in their judgment, to send a body of sworn and armed officers on this mission. The jury probably inferred from the testimony which it heard, that there was no occasion for any such extreme measures; that the constituted authorities were able, or should have been able, to make an ordinary arrest and, therefore, the jury probably indulged in the conjecture that the sending of this posse to Williams' place was not justified by the evidence before them.

The materiality of the evidence, which was excluded, appears so manifest that it is difficult to conceive of any basis upon which it could have been excluded. This evidence shows the real and logical motive for and explanation of the course adopted by the Commissioner of Public Safety and the Chief of Police who, in an effort to perform their duties, adopted what they thought to be the best means of insuring a peaceful outcome. It would ordinarily be supposed that, when a number of officers and leading citizens, well known to Williams and his associates, entered Williams' yard to effect the arrest, their authority would be respected and a peaceful issue result. This outburst, after several weeks' calm, required some

rational explanation. This evidence would have furnished a full and rational explanation of the incident and should have negatived and dispelled any theory that this unfortunate occurrence resulted from any conspiracy to kill Williams, or from any act done by the Great Southern Lumber Company or its agents, within the scope of their authority.

It is a vital point in the case: Whether Williams was killed by the constituted authorities in the enforcement of law and order or by the defendant; whether the posse which did the shooting was organized by the constituted authorities to meet an emergency or as a pretext by the defendant to make away with Williams. It is, in fact, the very heart of the case.

The prejudicial effect of the exclusion of this evidence is aggravated by the charge of the Trial Judge, wherein he states (R. 78):

> "The law does not prohibit a citizen from carrying arms publicly on the street and, in doing so, he commits no offense and is entitled to freedom from arrest until he commits some offense."

A jury would obviously conclude from this charge that Bouchillon, O'Rourke and Dacus were acting within their constitutional and legal rights and that the action of the public authorities and the posse was an invasion of these rights, whereas, if the jury had been permitted to know the circumstances attending

the incident and the nature and extent of the provocative acts, it should have reached the conclusion that the shooting of Williams was the outcome of these provocative acts and that the Great Southern Lumber Company, its officers and agents, were in no wise responsible therefor.

Petitioner terms this a technical and insubstantial error and says that a new trial should not lightly be granted, especially as the trial lasted "more than four weeks." The error is not technical or insubstantial; it is material and fatal, as found by the Circuit Court of Appeals. And in passing, let us observe the exaggeration that the trial lasted for more than four weeks—it lasted exactly 15 days, from April 20th to May 5th.

The case comes, rather, within the rule announced by this Court in *United States v. River Rouge Co., 269 U. S., 411*, when this Court held:

> "An error which relates, not merely to formal or technical matters, but to the substantial rights of the parties — especially when embodied in the charge to a jury—is ground for reversal unless it appears from the whole record that it was harmless and did not prejudice the rights of the complaining party."

The Trial Judge charged the jury that Bouchillon and O'Rourke were entitled to bear arms on the public street. This, to a jury, is a condonation of their act—a legal justification of what was obviously a crime.

SECOND POINT.

The District Court Erred, As Found by the Circuit Court of Appeals, in Admitting the Statement Alleged To Have Been Made by Carson After the Shooting.

The Court of Appeals held that the admission in evidence of the alleged statement of Bob Carson, made after the shooting to Mrs. Williams, that the posse had come to kill Williams and had done so, constituted prejudicial error justifying the reversal of the verdict and judgment.

Over the objection of the defendant, Mrs. Williams was permitted to testify and did testify concerning the statement of Carson made to her after the shooting, as follows:

> Q. What did he say, Mrs. Williams?
>
> A. He said they had come to kill Lem Williams and they did kill him.
>
> Q. By whom was Carson employed, do you know?
>
> A. The Great Southern Lumber Company.

In holding that this evidence was improperly admitted and that prejudice resulted to the defendant from the admission of such evidence, the Circuit Court of Appeals said:

> "The court below, over the objection and exception of the defendant, permitted the plaintiff and others to testify that one Bob Carson subsequently introduced as a witness

for defendant said to her in the presence of others that they (referring to the posse) had come there to kill her husband and had done it. The admission of this evidence is sought to be justified both as the statement of a conspirator against the defendant, a co-conspirator, and as a *res gestae* declaration of an agent binding on his principal. Carson had not been examined when the evidence was admitted, and it was not offered to impeach him, but as an admission against interest of the defendant. We think the court erred in admitting this evidence. It was not the declaration of a co-conspirator. The record fails to establish any conspiracy between the defendant and Carson with reference to the deceased. Again, if there had been a conspiracy between them, the object of which was to kill deceased as charged, the conspiracy was ended by the death of deceased, before the statement asserted to have been made was made by Carson. All the shooting was over, the brother of deceased had already been rescued, and O'Rourke, who was wounded, was being put in a car to be taken to a hospital. Carson had been placed at the gate of the deceased's premises to keep order. The statement itself was not a verbal act. It was not made to carry out the conspiracy, but was a mere narration of what had already been done and of its purpose. It was not part of the *res gestae*. Carson was not even employed by the defendant. The evidence of the plaintiff to that effect shows on its face

> that she had no knowledge that would qualify her to testify to his employment. Carson and all other witnesses denied such employment. If Carson was not employed, his declaration, whenever made, would not be binding on the defendant. It was the hearsay of a stranger to defendant, made after the transaction, and narrative of it, and the court erred in admitting it."

Mrs. Williams' statement that Carson was employed by the Great Southern Lumber Company is denied by Carson and the officials of the company and the Chief of Police. Their evidence is uncontradicted, except for Mrs. Williams' casual statement, that Carson had not been in the employ of the company for many years. Carson testified he had not worked for the company since 1910. Cassidy, the General Manager of the company (R. 997), testified that Carson was not working for the Great Southern Lumber Company at the time of the shooting and did not know, despite his many years of connection with the company, that Carson had ever worked for the company, except through the testimony of some witnesses on the stand in this case. Cassidy had been General Manager of the company for fifteen years. Guerre, the Superintendent of the mill, testified that Carson was not employed by the company (R. 623). The Chief of Police testified (R. 551) that Carson was a merchant in Bogalusa and had been for four or five years. Mrs. Williams' casual assertion that Carson was employed by the company would not create any issue of fact against the positive testimony of all of these parties. Mrs. Wil-

liams explained her statement by saying that she thought he (Carson) would not be sacrificing his time for them if he was not being paid by them. (R. 488). This shows that Mrs. Williams did not know that Carson was working for the company but merely assumed it. There is no scintilla of evidence that Carson worked for the company and, in any event, the scintilla rule does not apply in the Federal Courts. Carson denies that he was present at the shooting and testifies that he and others had been sent by the Chief of Police to guard a road leading out of town at a point several miles from the town, over which it had been supposed Dacus might seek to escape. (R. 863). Carson is corroborated in this by the Chief of Police (R. 551-553) as well as by those who accompanied him on this mission (R. 976). Carson and these others testified that, when they heard the shooting, they came in and did not arrive on the scene until more than fifteen minutes after the shooting. Carson denies talking to Mrs. Williams and denies that he made the statement which she attributes to him. However, we concede that there is a dispute of fact as to whether Carson was on the scene but, regardless of whether he was there or not, his alleged statement is no evidence against the Great Southern Lumber Company and such evidence should have been excluded.

Mrs. Williams fixes the time of Carson's statement variously. She says definitely (R. 1048) that Carson made the statement when the officers were taking O'Rourke, who had been shot, out of the yard and to the hospital. She says (R. 1050) "that may be ten or fifteen minutes after the shooting."

Carson, as one of the alleged conspirators, could not bind his co-conspirators by any statement made after the object of the conspiracy (the killing of Williams, as alleged) had been accomplished. In *Spencer v. Read, 217 Fed., 508*, the Circuit Court of Appeals for the Eighth Circuit said:

> "It is undoubtedly true that, in all cases where a conspiracy is shown, the act of one conspirator in the prosecution of the enterprise is considered the act of all, and may be shown in evidence against all. But only those acts and declarations are admissible under this rule which are done and made while the conspiracy is pending, and in furtherance of its object. After the conspiracy has come to an end, either by success or by failure of the enterprise, the admissions of one conspirator by way of narration of past facts are not admissible in evidence against the others."

The petitioner contends that Carson's statement was a spontaneous exclamation at a time when he had not had opportunity to think or reflect, and cites in support of this position the following from *Wigmore on Evidence, Vol. 3, Section 1747:*

> "Since this utterance is made under immediate and uncontrolled dominion of the senses, and during the brief period when considerations of self interest would not have been brought fully to bear by reason and reflection, the utterance may be taken as particularly trustworthy (or, at least, as lacking the usual grounds of untrustworthiness) and

> thus as expressing the real tenor of the speaker's belief *as to the facts just observed by him* (italics ours) and may, therefore, be received as testimony to those facts."

This principle does not cover the point under discussion for two reasons: First, the alleged statement was not made as a spontaneous utterance, but was made after the smoke had cleared away, so to speak, and one of the wounded men was being taken to the hospital; secondly, the speaker was not making any statement about any fact just observed by him but was pretending to state the motive and purpose that impelled those who did the shooting, operating antecedent to their coming to Williams' place.

Furthermore, as the evidence conclusively establishes that Carson was not an employee of the Great Southern Lumber Company, Carson certainly could not bind the company by any statement made by him.

And, even if Carson had been an employee of the company, he could not bind the company by any statement made after the act became an accomplished fact. When O'Rourke was being taken from the premises to the hospital, as the evidence shows was the case, according to Mrs. Williams, and while Carson was standing at the gate after the shooting was all over, it is apparent that the act had been fully and completely performed and the alleged purpose accomplished and, therefore, Carson's statement was nothing more than a narrative of past events, and, under the circumstances, no part of the *res gestae*. Carson's alleged statement did not purport to describe the act or any circumstances attending it, but, if true, simply offered a motive,

operating at an antecedent time, which impelled the persons engaged in the shooting to do the act.

An analogy may be found in these facts: If an automobile travelling at a high rate of speed were to hit a pedestrian, the exclamation of a bystander that the chauffeur was travelling at a furious speed might be admissible as a part of the *res gestae*, notwithstanding the hearsay character of the testimony but certainly no statement by the bystander, after the accident had happened and the injured man was being taken to the hospital, that the driver had previously told him that he was going to drive his car at a high rate of speed and strike the pedestrian, would be admissible.

In *Vicksburg & Meridian Railroad v. O'Brien, 119 U. S., 99-103*, this Court said:

> "While this Court will not disturb a judgment for an error that did not operate to the substantial injury of the party against whom it was committed, it is well settled that a reversal will be directed unless it appears, beyond doubt, that the error complained of did not and could not have prejudiced the rights of the party. (Citing authorities).
>
> "At the trial below, plaintiffs introduced one Roach as a witness, who, during his examination, was asked whether he did not, shortly after the accident, have a conversation with the engineer having charge of defendant's train at the time of the accident, about the rate of speed at which the train was moving at the time. To that question the defendant

objected, but the objection was overruled, and the witness permitted to answer.

* * * * *

"We are of opinion that the declaration of the engineer Herbert to the witness Roach was not competent against the defendant for the purpose of proving the rate of speed at which the train was moving at the time of the accident. It is true that, in view of the engineer's experience and position, his statements under oath, as a witness, in respect to that matter, if credited, would have influence with the jury. Although the speed of the train was, in some degree, subject to his control, still his authority, in that respect, did not carry with it authority to make declarations or admissions at a subsequent time, as to the manner in which, on any particular trip, or at any designated point in his route, he had performed his duty. His declaration, after the accident had become a completed fact, and when he was not performing the duties of engineer, that the train at the moment the plaintiff was injured, was being run at the rate of eighteen miles an hour, was not explanatory of anything in which he was then engaged. It did not accompany the act from which the injuries in question arose. It was, in its essence, the mere narration of a past occurrence, not a part of the *res gestae*—simply an assertion or representation, in the course of conversation, as to a matter not then pending, and in respect to which his au-

thority as engineer had been fully exerted. It is not to be deemed part of the *res gestae*, simply because of the brief period intervening between the accident and the making of the declaration. The fact remains that the occurrence had ended when the declaration in question was made, and the engineer was not in the act of doing anything that could possibly affect it. If his declaration had been made the next day after the accident, it would scarcely be claimed that it was admissible evidence against the company. And yet the circumstances that it was made between ten and thirty minutes—an appreciable period of time—after the accident, cannot, upon principle, make this case an exception to the general rule. If the contrary view should be maintained, it would follow that the declarations of the engineer, if favorable to the company, would have been admissible in its behalf as part of the *res gestae*, without calling him as a witness—a proposition that will find no support in the law of evidence. The cases have gone far enough in the admission of the subsequent declarations of agents as evidence against their principals. These views are fully sustained by adjudications in the highest courts of the states."

The testimony as to the statement of Carson, made under the circumstances above narrated, obviously prejudiced the defendant and the Circuit Court of Appeals properly found that it constituted reversible error.

POINT THREE.

That the District Court Erred in Excluding the Testimony As to Williams' Attempt to Interfere With the Police Officer in Arresting Tom Ezell—the Circuit Court of Appeals Having Failed To Take Cognizance of This Assigned Error.

The Trial Court excluded the evidence of plaintiff's witness, Patrolman Flournoy, tending to show that on one occasion several weeks before the shooting, when Flournoy had arrested one Tom Ezell, a union man, Lem Williams interfered and challenged the authority of the officer, threatened to burn the jail and do bodily injury to the officer if the prisoner was not released. (R. 506). Exception was duly noted, bill of exception reserved and taken (R. 1064) and error assigned (R. 127).

The Circuit Court of Appeals failed to consider the question raised by this exception and assignment of error, although same was pressed in brief. This incident was important in showing the condition of lawlessness existing at Bogalusa during this period and the participation of Williams and his associates in such lawless acts. It is another material circumstance in explaining why Flournoy did not arrest Bouchillon, O'Rourke and Dacus while they were on their armed and lawless pilgrimage in Columbia Road; it offers another reasonable and logical basis to explain why the police authorities were cautious in not attempting to arrest Bouchillon, O'Rourke and Dacus with an inadequate police force; it shows the reason for the state of agitation and caution on the part of the authorities

in dealing with Williams and his associates, it is another of the many important circumstances establishing that the aggression of Williams and his associates, and not the Company's will, was the moving and sole cause for the summoning of the posse to vindicate the law and execute its process through peaceful means.

POINT FOUR.

That Defendant's Motion to Direct a Verdict in Its Favor on the Whole Record Made After the Conclusion of All Testimony Should Have Been Granted and the District Court Erred in Not Granting Same.

At the conclusion of all of the evidence and testimony in the case, and at the close of the case, in open Court and in the presence of the jury and before the charge of the Judge was delivered, defendant, Great Southern Lumber Company, through its counsel, moved the Court to direct a verdict in favor of the defendant on all of the evidence and testimony in the case. (R. 147). The Court denied the motion, whereupon defendant, Great Southern Lumber Company, then and there duly excepted and noted its exception of record. Bill of Exception No. 1, to which all of the evidence and testimony in the case is attached, covers the point and error was duly assigned to the ruling of the Court. (R. 147).

Plaintiff seeks to recover on two grounds:

1. That Williams was killed in pursuance and execution of a conspiracy to kill him, entered into by the Great Southern Lumber

Company, its officers and servants, acting within the scope of their authority; and

2. Williams was killed by the agents and employees of the Great Southern Lumber Company, acting within the scope of their authority.

On this point in the case, the Circuit Court of Appeals, in its opinion, said:

"The District Judge denied the request of defendant for a directed verdict. Upon a subsequent trial, the evidence may differ from that presented in this record, and it is unnecessary to pass upon its sufficiency to establish either or both of the grounds of liability, relied upon by plaintiff to connect the defendant with the killing of the deceased. We do not think the present record contains direct evidence of a conspiracy between the defendant through its agents and strangers to kill deceased. There is evidence tending to show that Guerre, the superintendent of the defendant, caused the whistle signal to be given, when requested by the city authorities, and that he was at the place of the shooting armed, when the shooting occurred, though this was denied by him. An employer is liable for the willful and criminal assault of an employe, committed while he is engaged in acts within his function or the scope of his authority, as, when protecting his employer's property from trespass or destruction. What the employe does, that is beyond the

> subject-matter committed to him by his employer, does not bind the employer. In this case, the evidence tended to show that Guerre was helping to arrest Dacus and the two labor leaders. No express authority to do so is shown to have been conferred upon him by the defendant. A previous course of conduct on defendant's part, from which the authority for its superintendent to assist the police in making arrests could be inferred, would have to be shown. It would also have to appear that the authority was exercised for the benefit of the defendant, as distinguished from the duty of the citizen. If Guerre went to the premises of the deceased to help make the arrest and had been authorized by the defendant to make arrests in its interest, and knowingly aided and abetted in an unlawful killing of deceased, the defendant would be liable, but not otherwise."

The law under which a master is responsible for the tort of his agent is laid down in decisions of this Court and the Supreme Court of Louisiana.

This law in Louisiana is statutory *(Revised Civil Code, 2320)*:

> "Masters and employers are answerable for the damage occasioned by their servants and overseers, in the exercise of the functions in which they are employed.
>
> "Teachers and artisans are answerable for the damage caused by their scholars or

apprentices, while under their superintendence.

"In the above cases, responsibility only attaches, when the masters or employers, teachers and artisans, might have prevented the act which caused the damage, and have not done it."

In *Washington Gas Light Company v. Lansden, 172 United States, 534-544*, the Supreme Court of the United States said:

"The result of the authorities is, as we think, that in order to hold a corporation liable for the torts of any of its agents, the act in question must be performed in the course and within the scope of the agent's employment in the business of the principal. The corporation can be held responsible for acts which are not strictly within the corporate powers, but which were assumed to be performed for the corporation and by the corporate agents who were competent to employ the corporate powers actually exercised. There need be no written authority under seal nor vote of the corporation constituting the agency or authorizing the act. But in the absence of evidence of this nature there must be evidence of some facts from which the authority of the agent to act upon or in relation to the subject-matter involved may be fairly and legitimately inferred by the court or jury. Salt Lake City v. Hollister, 118 U. S. 256, 260; Denver & Rio Grande

Railway v. Harris, 122 U. S. 597, 609; Lake Shore & Michigan Southern Railway v. Prentice, 147 U. S. 101, 109, and cases cited at p. 110.

"In this case no specific authority was pretended to have been given the general manager, Leetch, to write the letters which he sent to Brown, or to authorize the publication of anything whatever in the periodical named. We are then limited to an inquiry whether the evidence is sufficient upon which a jury might be permitted to base an inference that Leetch had the necessary authority to act for the company in this business. If different inferences might fairly be drawn from the evidence by reasonable men, then the jury should be permitted to choose for themselves. But if only one inference could be drawn from the evidence, and that is a want of authority, then the question is a legal one for the court to decide. We do not mean that in order to render the company liable there must be some evidence of authority, express or implied, given to the manager to publish or to authorize the publishing of a libel, but there must be some evidence from which an authority might be implied on the part of the manager to represent the company as within the general scope of his employment, in regard to the subject-matter of the correspondence between Brown and himself. There is no evidence of an express authority, nor of any subsequent ratification of Leetch's conduct by the company. Can any authority

be inferred from the evidence as to the nature of the duties and powers of the manager? Were the acts of Leetch within the general scope of his employment as manager? Upon a careful perusal of the whole evidence we find nothing upon which such an inference can be based; nothing to show that any correspondence whatever, upon the subject in hand, was within the scope of the manager's employment."

In *Jackson v. Brady, 140 La., 746*, the Supreme Court of Louisiana said:

"Where the arrest of the plaintiff, in an action to recover damages for an alleged malicious prosecution, was made upon the affidavit of one of the defendant's employes, the burden of proof was on the plaintiff to clearly show that such employee had express or implied authority from the defendant to have the plaintiff arrested."

In the course of the opinion, the Court said:

"Excluding the testimony of Robinson, there is no evidence in the record to contradict the direct and positive statements of the defendant and his manager that neither of them had given to the said Robinson any instructions or authority whatsoever to charge the plaintiffs with the offense of obtaining goods under false pretenses.

"As Robinson had no authority to represent the defendant, it follows that all of his

acts and declarations in the premises were *res inter alios acta* as to the defendant."

In *Vara v. R. M. Quigley Construction Company, 114 La., 261*, the Supreme Court said:

"The Civil Code confines the responsibility of masters to damages occasioned by their servants 'in the exercise of the functions in which they are employed.' (Article 2320).

"The syllabus prepared by the Court says:

" 'In a suit for damages for an unlawful arrest, the burden of proof is on the plaintiff to show that the defendant caused, instigated, or authorized the proceeding complained of; and where it is shown that such an arrest was made at the instance of defendant's employees, proof must be clear that they had express or implied authority to cause the same to be made.' "

In the case of *Ware v. Canal Company, 15 La., 169; 35 Am. Dec., 189*, the Court said:

" 'The distinction is obvious between the willful and deliberate acts of agents amounting to offenses which they commit, even when attending to the functions entrusted to them, and those acts of imprudence, unskilfulness, and ignorance in the discharge of their duties, which may occasion injury to others.'

"Hence the circumstance that the agent or employe of defendant was discharging cer-

tain duties for his principal at the time is of no moment, unless the arrest was made in the exercise of the functions in which he was employed."

In *Candiff v. Louisville, New Orleans & Texas Railway Company, 42 La. An., 477*, the Supreme Court of Louisiana said:

"If Esteve's version be true, the shooting of Candiff was as cold-blooded a murder as was ever committed. It presents the conductor as coolly walking up to a man standing quietly, doing and saying nothing, and shooting him down without a word. No stretch of the doctrine that masters are responsible even for the torts of their servants when done within the scope of their employment and in the exercise of the functions in which they are employed, can make it cover such an act as this.

"Admitting that the conductor is charged with the duty of protecting the cars and contents confided to his care, and that acts done in execution of such charge are within the scope of his employment, and admitting that he supposed Candiff had broken into the car, and shot him for that reason, in what manner was such shooting, under such circumstances, necessary or conducive to the protection of the property?"

In *Valley v. Clay, 151 La., 710*, the Court said:

"For a master to be liable for an injury, it must have been caused by some act ex-

pressly or by reasonable implication within the scope of his agent's employment.

"If a service be performed in an unlawful or even a criminal manner, the master is liable so long as the thing done forms a part of the servant's duties.

"In the absence of special instruction or agreement, it is not within a chauffeur's duty to protect his employer's family against assault, insult, or abuse at the hands of third persons, and he is not acting within the scope of his employment in assaulting one using abusive language, when narrowly escaping being struck by the automobile.

"In an action for an assault by defendant's chauffeur as the result of abusive language used by plaintiff when almost struck by the automobile, an allegation that the chauffeur was acting within the course of his authority to protect the occupants of the car was but a legal conclusion."

In *Hale v. Gilliland Oil Company, 151 La., 500,* the Court said:

"Conceding, for the moment, that the facts alleged do not show that he was injured while in the course of his employment, has he alleged a cause of action under the Code? We think not. He says, in substance, that, as a part of his employment, he was assigned to a particular bunk in a bunkhouse furnished by his employer for his exclusive use, and had so occupied it; that late one night he returned

to the said house and found his bunk occupied by some one else; that he thereupon went to the foreman in charge of the bunkhouse, 'as he was in duty bound to do,' and asked him to have the bunk vacated or to furnish another; that the foreman became angry at having been thus awakened, placed his hand upon plaintiff's shoulder, and said, 'I have a mind to blow your damn brains out;' and that he then pulled a 45 caliber pistol and shot plaintiff through the head, totally disabling him for life.

"The petition does allege that the foreman was acting within the scope of his agency when he shot the plaintiff, but that is only a conclusion of the pleader. He was not employed to assault or murder people, but to see that the employees were properly cared for in the bunkhouse, and suddenly turned away to vent his anger upon the plaintiff for purposes of his own. The employer was therefore not liable for his act."

In the case of *Godchaux v. Texas & Pacific Railway Company, 144 La., 1041*, a railway company's station agent, who was also employed as express agent, attacked one calling for a shipment. The Court said:

"It is not enough, however, to support the doctrine of *respondeat superior* that the quarrel that resulted in the tort committed by the servant arose from and out of the business which he had authority to transact, and that he was acting within the scope of his

employment at the moment when he stepped aside from the business of his master to commit the wrongful act on his own behalf and without regard for the business of the master. The responsibility of the master for the tort committed by his servant does not depend upon whether the tort was committed in the course of the employment; the test is whether the tort was committed within the scope of the employment. * * * "

The Court said:

"In this case, for example, if it had been within the scope of the agent's authority or employment to eject a disturber from the employer's premises, the employer would be responsible for the agent's wrongful or excessive manner of exercising the authority. There is neither allegation nor proof that the agent, in this case, had authority to serve as a police officer, or peace officer, or, in any circumstances, to eject any one from the employer's premises. The only question is whether the wrongful act of the agent was merely an excessive manner of performing a duty within the scope of his employment, or so far exceeded the scope of the employment as to be entirely beyond contemplation on the part of the employer.

"It would serve no good purpose to select from the many adjudged cases the one best fitted to this case in point of fact, and decide accordingly.

"Most certainly it is a dangerous rule, of perhaps far-reaching consequences, that would be declared by this precedent, should the employer be held in damages for this murder committed by the employee under the circumstances in evidence. It is going beyond all rules of liability to permit such a bare conjecture that the homicide was done in furtherance of any duty to the master to stand as a finding of fact, where, as here, a willful, deliberated, premeditated killing resulted, and where every act done bespoke a defined purpose and intent in the assailant, born of his own malice, to injure or kill another. That the cause of the quarrel of the night before was the milking of the cow, or delaying supper, and concerned the business of the master, is wholly immaterial. That business was a closed incident, having no relation in law to subsequent events, except as it furnished the motive and engendered the hatred that gave vent in murder the next morning."

164 N. W., 684.

In *Varnes v. Seaboard Air Line Ry. Co., 86 Southern, 433*, the Supreme Court of Florida said:

"There was no evidence to show that the man Hicks was the agent of the defendant to protect the train from trespassers or the intrusion of trespassers upon it, or from stealing rides on it, nor that in shooting Fox he was acting within the scope of his authority as an employee, nor within the apparent scope of his authority. The theory of *respondeat*

superior was the only one upon which the declaration could be held to state a cause of action, and it was wholly unsupported by the evidence."

There is not one word of evidence in this record tending to prove that a conspiracy existed or from which it may be reasonably inferred that a conspiracy existed. On the contrary, the evidence is conclusive and overwhelming that the disturbance which took place in Bogalusa followed directly from the overt and provocative act of Bouchillon, O'Rourke and Dacus in parading the public streets and defying and challenging the authority of the law and that the men who did the shooting were officers of the law, regular and special, appointed and recruited by the constituted authorities, for the purpose of preserving the public peace and protecting life and property in that community.

There is not one word of evidence in this record to show that any officer of the Great Southern Lumber Company knew of the disturbance by these three men or took any part in the measures adopted by the authorities to preserve the peace and enforce the law. No officer or employee of the Great Southern Lumber Company was a member of the special police force. They were expressly excluded, as were all union men. The special officers were summoned to duty on the occasion in question by direction of the Commissioner of Public Safety and the Chief of Police. Neither the Great Southern Lumber Company, nor any of its officers or employees took part in summoning the special officers, except that the whistle of the Great Southern

Lumber Company was used as a signal for the summoning of the officers.

The record shows conclusively that the Commissioner of Public Safety and the Chief of Police ordered the whistle blown as the signal for the summoning of the special officers and that the company had consented that its whistle, which was the only available means in the town for giving a signal, might be used by the police authorities whenever they desired. The record further conclusively shows that, on a previous occasion, in pursuance of this consent, the whistle was used to summon the special police officers to quell a riot and that the riot was quelled without bloodshed or injury to anyone.

Much stress was laid in the petition and in the Courts below that the use of this whistle as the signal for the assembling of the special police officers establishes the connection of the Great Southern Lumber Company with the alleged conspiracy and fixed its responsibility for the acts of the citizens who were summoned to duty through the medium of this whistle. This conjecture has no basis in fact or in law and the effect of the blowing of the whistle is totally destroyed in the light of the undisputed evidence that the police authorities requested permission to use the whistle for lawful purposes.

If the police officers, assembled and called to duty through the use of this whistle, thereafter committed a tort or exceeded their authority, certainly the blowing of the whistle was not the proximate cause of the injury and it cannot be said that there is any causal

connection. The officers and employees of the Company were not members of the League; they had no part in its formation or its purposes. No officer or employee of the Company knew anything about the Columbia road affair; none knew of or took any part in the issuance of the warrants or the means adopted for their execution. The public authorities alone acted on their own responsibility.

That there had been disturbances in Bogalusa, directed in some measure against the Great Southern Lumber Company, does not justify the inference that an employee of the Great Southern Lumber Company who thereafter participated in a murder, if murder was committed, was acting within the scope of his authority. That the elimination of Williams from the labor situation in Bogalusa would have tended to improve that situation, from the company's standpoint, if conceded, does not justify the inference that it was within the scope of the employment of any such agent or employee to participate in the alleged murder of Williams. That the Superintendent of the defendant's mill, Guerre, about whose participation in the affair the evidence is contradictory, was present at the shooting with a gun in hand, does not justify the inference that he was acting for and on behalf of the company and within the scope of his authority.

So far as Guerre knew, as an employee of the company, the whistle was blown by direction of the police authorities to assemble the special police officers and these police officers were engaged, under the direction of the constituted authorities, in the performance of a police duty. That he accompanied them in the un-

dertaking, does not carry with it the inference that he was there as an agent of the company acting in its behalf and for its purposes and within the scope of his authority.

Some of plaintiff's witnesses state Paul LeBlanc, an Assistant Superintendent of the Company, was in the crowd, and also Townsend, a sales agent (who Sullivan says was playing golf with him at the time), as well as Dr. Brister, a physician engaged in general practice, who was on the staff of the general hospital maintained by the defendant and other industries in the City of Bogalusa.

If these men were present, there is no inference to be drawn that they were there in pursuance of a conspiracy to kill Williams or that they were there representing and in behalf of the Company in pursuance of authority, express or implied. They were certainly on no mission of the Company.

Likewise, it was agreed that, because Wily Magee, the regular police officer, who had the warrant and participated in the shooting, lived in a house which he rented from the Company, it is to be inferred that he represented the Company. Magee was a regular policeman, on the City's payroll and was ordered by the Commissioner and Chief to go with the posse and to hold the warrants. What basis is there for the conjecture that this public officer was the agent of the Company and was acting in its behalf when he was engaged in the discharge of his official duty by order of his superiors?

Plaintiff carries the burden of proof that these participants were agents and employees of the Great Southern Lumber Company and were acting within the scope of their authority when they killed her husband. She has failed to discharge this burden. Her statements that all of the so-called gunmen were so employed does not discharge the burden which she carries and must meet.

The record not only shows plaintiff has failed to discharge this burden of proof but it definitely establishes that Williams met his death at the hands of police officers of the City of Bogalusa and not at the hands of any agents or employees of the Company acting within the scope of their authority.

It is manifestly difficult to argue a negative. The record is barren of any proof of conspiracy or any facts from which a conspiracy can be inferred. The record is likewise barren of any proof that Williams met his death at the hands of agents or employees of the Great Southern Lumber Company acting within the scope of their authority. The positive testimony is that Williams met his death at the hands of the police authorities of the City of Bogalusa, assisted by special police officers who went to his place of business for the purpose of executing warrants for the arrest of offenders against the public peace and that this breach of public peace was an unjustified and provocatory act against the authority of the law and a challenge to the officers of the law with which neither the Great Southern Lumber Company nor any of its officers or agents had any connection or relation whatsoever.

The testimony of the Vice-President and the Assistant General Manager of the Company, who were the responsible officials present in Bogalusa at the time, testified they knew nothing of these occurrences and had no knowledge that any warrants had been issued until the shooting had taken place and was over.

There is nothing to connect the Great Southern Lumber Company with this transaction and the mere fact that there had been labor disturbances and acts of violence committed in Bogalusa by Williams and his associates which had disturbed the peace of the community would not justify the inference that the Great Southern Lumber Company connived or participated in the shooting of Williams.

The charge in this case against the Great Southern Lumber Company and its officials is one of the most heinous charges that can be brought against any man and, because of its nature and gravity, it is essential that it be established by proof and not by wild and baseless conjecture.

The positive denial of the officials of the Company that they participated in any conspiracy or authorized or induced or connived with, any one to kill Williams, cannot be overcome by the wild and unsupported charges of witnesses in behalf of the plaintiff that the Company employed a lot of gunmen and that the substantial citizens, who assumed the disagreeable task of acting as temporary officers of the law to protect their homes and the peace of the community in which they lived, were the hirelings or confederates of the

Company in the accomplishment of a crime against God and man.

If the Circuit Court of Appeals had not reversed the judgment of the District Court on the specific grounds that the defendant had been substantially prejudiced by the exclusion of competent and material evidence and the admission of incompetent evidence, it is patent that it would have reversed the judgment on account of error of the District Court in failing to direct a verdict for the defendant. (See Court's opinion). Therefore, if for any reason, this Court should find that the Circuit Court of Appeals was in error in reversing the judgment on matters of evidence, the judgment of the District Court should nevertheless be reversed because of error in not directing a verdict for the defendant on its motion.

POINT FIVE.

That Both the District Court and the Circuit Court of Appeals Erred in Overruling and Not Sustaining Defendant's Exceptions of No Cause of Action and Prescription.

The original petition of plaintiff was filed, November 6, 1920, in her own behalf and for the use and benefit of her minor son, without her previously having qualified as tutrix under the law of Louisiana. This petition attempted to set forth a cause of action based upon the liability of a master for the acts of his servants acting within the scope of their express authority; the petition contains no allegation of any conspiracy to kill Williams.

Exception of no right or cause of action was filed to this petition levelled, first, at the lack of capacity in plaintiff to sue in behalf of her minor son without first having qualified as tutrix, and, secondly, to the imperfections and deficiencies in the petition resulting in a failure to state a legal cause of action (R. 9); and on January 8, 1921, this exception was sustained with leave to plaintiff to file an amended petition within thirty days. On February 4, 1921, more than fourteen months after the date of the alleged tort, which occurred November 22, 1919, plaintiff filed a supplemental petition setting forth that she had meanwhile qualified as tutrix of her minor child and sued in her own behalf and as tutrix. In this supplemental petition, there is propounded for the first time a cause of action, based upon an alleged conspiracy on the part of the Great Southern Lumber Company, its servants, employees, and other persons unknown, to kill Williams.

Defendant, Great Southern Lumber Company, filed exceptions to this supplemental and amended petition on the ground that it was vague, indefinite, uncertain and multifarious, and attempted to set up alleged causes of action different from the alleged causes of action set up in the original petition, and that it did not set forth any right or cause of action. Defendant also pleaded the prescription (limitation of action) of one year, under Article 2315 of the Revised Civil Code of Louisiana, to the right of plaintiff to sue as tutrix of her minor son or in her own behalf, as well as on the "conspiracy" cause of action propounded for the first time in the supplemental and amended petition.

Article 2315 of the Revised Civil Code of Louisiana, upon which these exceptions and the plea of prescription are based, is as follows:

> "Every act whatever of man that causes damage to another, obliges him by whose fault it happened to repair it; the right of this action shall survive in case of death in favor of the children or surviving spouse of the deceased, or either of them, and in default of these, in favor of the surviving father and mother, or either of them, and in default of any of the above persons, then in favor of the surviving brothers and sisters, or either of them, for the space of one year from the death, provided that should the deceased leave a surviving spouse together with minor children, the right of action shall accrue to both the surviving spouse and minor children; provided further, that the right of action shall accrue to the major children only in those cases where there is no surviving spouse or minor child or children.
>
> "The survivors above mentioned may also recover the damages sustained by them by the death of the parent or child, or husband or wife, or brothers or sisters, as the case may be."

These exceptions were overruled by the Trial Court and in due course defendant filed answer, reserving the benefit of the exceptions and reiterating the plea of prescription under Article 2315 of the Revised Civil Code of Louisiana.

Error was duly assigned to the action of the District Court in overruling and in failing to sustain defendant's exceptions. (R. 111).

In its opinion (R. 1084), *17 Fed. Reporter (2d), 467*, the Circuit Court of Appeals sustained the action of the Lower Court on this point in the following language:

> "The plaintiff, after the lapse of more than a year from the date of the deceased's death, by leave of court, amended her petition. The contention of the defendant is that the amendment introduced a new cause of action, not contained in the original petition, and barred by the Louisiana prescription of one year. If the amendment is given the effect contended for by defendant, the new cause of action would, under the jurisprudence of Louisiana, have been prescribed by the limitation of one year. The contention of the defendant is that the original petition contained no cause of action based on an unlawful conspiracy between defendant and others to kill deceased, to remove him from defendant's path because of his labor activities. While the original complaint, as we construe it, set out the cause of action for unlawful conspiracy in too vague and uncertain terms to be good against exception, it did present, though imperfectly, such a cause of action, together with one based upon the principle of *respondeat superior*. We conclude that the cause of action for unlawful conspiracy

was not subject to prescription at the time the amendment was filed."

In sustaining the action of the Lower Court, the Court of Appeals, in effect, said that it was able to eke out from the original petition a charge of conspiracy and that, therefore, the supplemental petition which propounded a cause of action based upon conspiracy did not set forth a new cause of action which would be subject to the prescription or limitation provided by the Louisiana statute. The Court failed to consider the exception insofar as it challenged the right of the tutrix to sue in behalf of the minor in a supplemental petition filed more than one year after the date of the commission of the alleged tort.

In *Tremont Lumber Company v. May, 143 La., 389*, at *page 395*, the Supreme Court of Louisiana said:

> "The amendment should not have been allowed. A petition upon which no judgment can be pronounced does not show a cause of action; and a petition which does not show a cause of action is, legally speaking, no petition, and hence cannot be amended. For definition of a petition, see American Sugar Refinery Case, 138 La. An. 283, 6 South. 529, this court said: 'The court is powerless to authorize an amendment which would insert a cause of action when none was previously averred.' In State v. Hackley, Hume and Joyce, 124 La. 854, 50 South. 772, the court said: 'Unless a cause of action is alleged

there is no suit, and hence nothing to amend.' See these cases quoted with approval in Godchaux v. Hyde, 126 La. 187, 52 South. 269.

"Where a cause of action is stated for the first time in a supplemental or amended petition, the filing of the supplemental petition must be considered to be the beginning of the suit; the suit must be considered as dating only from such filing, and not from the filing of the original petition; and the supplemental petition must be served upon the defendant, and the delays for answering must be allowed as in the case of an original petition. Hart & Co. v. Bowie, 34 La. An. 323; Raymond v. Palmer, 35 La. An. 281; Ursuline Nuns v. Depassau, 7 Mart. N. S. 645; 1 C. J. 1159. In the instant case the supplemental, or amended, petition was not served on defendants; defendants were never cited to answer it; they duly excepted on the ground to being required to answer it.

"But the serving of it would have been of no avail, as the date of its filing was the 6th of November, five days after the expiration of the delay allowed by law for the filing of suits of that character. 'The action to test such correctness (the correctness of an assessment) shall be instituted on or before the first day of November of the year in which the assessment is made.' Section 26 of Act 170, p. 346, of 1898. The defendants duly excepted on that ground also."

The filing of the amended petition by Mrs. Williams, tutrix of the minor, after more than a year had elapsed after the death of Williams, was the first time that a legal demand for damages was made on behalf of the minor. It was barred by prescription and came too late.

Mrs. Williams could not legally bring suit or stand in judgment for her minor son until she had qualified as tutrix.

In *Koepping v. Monteleone, 143 La., 353*, the Supreme Court of Louisiana held:

> "A surviving parent, who is not the qualified tutor or tutrix of his or her minor child, cannot sue on behalf of his or her minor child."

And, in the course of its opinion, the Court said:

> "As regards minors residing in this state, the law is:
>
> " 'Minors, persons interdicted or absent, cannot sue, except through the intervention or with the assistance of their tutors or curators.' (C. P. 108).
>
> " 'As there is no allegation in plaintiff's petition as to the law of her domicile, or that it is different from the law of this state, the presumption is that the law of Illinois is the same as the law of this state, and that minors cannot sue "except through the intervention or with the assistance of their tutors or curators." The law is clear and explicit; and con-

tains an express prohibition against minors suing in the courts of the state, except with the assistance of their tutors or curators.' "

"* * * We have also been referred to the decision of the court in the case of Creagh v. New Orleans Ry. & Light Co., 128 La. 305, 54 South. 828, which was brought by a mother, who had married a second time, for personal injuries to her minor son of a former marriage. In that case Mrs. Creagh sued as the natural tutrix of her son; and no exception was filed *in limine* to her capacity to sue. That exception appears to have been filed in the answer; and plaintiff qualified as natural tutrix before the trial of the case on the merits. It was there said:

" 'The general rule of law is that any person, natural or artificial, may sue in the courts of the country.'

"And the exception in the answer was overruled. The codal provisions were not referred to or considered in that case.

"In view of the law that minors, after a dissolution of the marriage of their parents, must be placed under the authority of a tutor, and the prohibition contained in article 108, C. P., to the effect that 'minors cannot sue except through the intervention of or with the assistance of their tutors or curators,' the exception to the capacity of plaintiff to sue and stand in judgment herein was properly sustained."

This is the latest expression of the Supreme Court of Louisiana on this subject.

The petitioner, plaintiff below, seeks to support the action of the Trial Court under the authority of the decision in *Lanis v. Illinois Central, 140 La., 1, 72 Southern Reporter, 788.*

In that case, the widow of a railway employee, killed through the negligence of the company in interstate commerce, brought suit in her individual capacity for damages under a State statute, and the defendant excepted to the proceedings on the ground that the right of action under the Federal Act precluded a right of action under the State statute. Subsequently, plaintiff was allowed to amend her petition by appearing in the capacity of administratrix for the benefit of herself and her child. The amended petition was filed more than two years after the date of the death. The plea of prescription or limitation, under the Federal Employers' Liability Act, was interposed.

The Court held:

> "* * * It is proper to allow the plaintiff to amend her petition by appearing in the capacity of administratrix and personal representative of the deceased for the benefit of herself and her only child. And, in such case, as to the demand for the benefit of the widow, the prescription of two years does not apply if her original petition was filed and served within two years from the fatal accident, notwithstanding her supplemental petition, as personal representative of the deceased, was filed after two years had elapsed."

This decision does not hold that the amendment was good as to the claim of the minor child, but, on the contrary, declares that it finds it unnecessary to decide the question, in view of the fact that the award for the benefit of the child was limited to $1.00, and under the maxim, "*de minimis non curat lex*," such an award does not even affect the costs.

In commenting upon this decision the editor of the *American Law Reports Annotated, Vol. 8,* at *page 1421,* says:

> "The court held that it was proper to allow plaintiff to amend the petition by appearing in the capacity of administratrix for the benefit of herself and child and that, as to the demand for the benefit of the widow, the amendment might be allowed, although more than two years had elapsed from the accrual of the cause of action. But the court was of opinion, apparently, although it was unnecessary to decide the point, since the damages recovered for the child were purely nominal and did not affect the costs, that as to a demand for damages for the benefit of a child of the deceased, made for the first time in the amendment, a new cause of action was stated, which would be subject to the limitation of the Federal statute."

In any event, the case of *Koepping v. Monteleone, 143 La., 354, supra,* was subsequent in point of time to the case of *Lanis v. I. C., supra.*

Another case cited by petitioner, plaintiff below, in support of this position, is *James v. City of New Orleans, 151 La., 480, 91 Southern, 846.* This case is not in point; it simply announces a familiar rule of law in the following language:

> "Although defendant's attorneys denominated their plea or exception to the original petition of no cause or right of action, it was, in substance and reality, an exception of vagueness or insufficiency of detail in the allegations of the petition. The complaint was that the petition should have shown why and how the municipal authorities ought to have been aware of the condition of the cover of the manhole. * * *
>
> "The purpose of the proposed amendment was merely to do away with defendant's complaint that the original petition did not disclose, specifically or in detail, what facts plaintiff intended to prove, in support of his allegation that the municipal authorities were at fault in their failure to observe that the cover of the manhole was defective and dangerous. We cannot imagine any just reason for the refusal to allow the amendment. As the motion did not set forth a new cause of action, it was an error to say that the cause of action therein referred to was barred by the prescription of one year, subsequent to the filing of the suit." (Citing authorities).

Plaintiff's supplemental and amended petition, filed more than one year after the alleged tort set forth

for the first time a cause of action based upon conspiracy. We believe that the Circuit Court of Appeals erred in holding that the original petition, although imperfect and deficient, sets forth a cause of action based upon conspiracy. It will be necessary for the Court to read that petition in order that it may determine for itself whether that petition contains any allegation of conspiracy. No defendant called upon to meet the issue propounded by the petition could be held to suppose that evidence would be introduced to establish a conspiracy on the part of the defendant and its employees and strangers to kill Williams. We venture to suggest that the Court would not have permitted evidence of a conspiracy to be introduced under the allegations of the original petition. It cannot be said that the defendant was fairly apprised by that petition that it was called upon to meet a charge of unlawful conspiracy.

In *Tremont Lumber Co. v. May, 143 La., 389,* at *page 395, supra,* the Supreme Court of Louisiana said:

> "Where a cause of action is stated for the first time in a supplemental or amended petition, the filing of the supplemental petition must be considered to be the beginning of the suit; the suit must be considered as dating only from such filing and not from the filing of the original petition."

The principles involved are fully discussed by this Court in the case of *Union Pacific Railway Company*

v. Wyler, 158 U. S., 285, where all of the authorities are reviewed. In its opinion this Court said:

> "The courts have, by their decisions, made application of these principles to changes in the facts averred or law relied on, thus illustrating the rule in many aspects. Where it was first alleged in an action for libel that the defendant had attacked the solvency of plaintiff, and by amendment that he had assailed the plaintiff's integrity in his personal conduct without questioning his solvency, this was held to be a new cause of action. Mohr v. Lemle, 69 Ala. 180. See also Smith v. Smith, 45 Penn. St. 403, where the same rule was applied in the case of slander. Where a party alleged that he was forcibly ejected from a train, and then by amendment averred that he was misled by the agents of the corporation into getting off at the wrong station, it was held to be a new cause of action. A. G. S. R. v. Smith, 81 Ala. 229. Where a party declared upon a contract, under which he claimed as assignee, and amended so as to rest on a contract which he alleged was made directly with himself, it was held a new cause of action. Bingham v. Talbot, 63 Texas, 271.
> * * *
>
> "The amended petition, which averred the statute of Kansas, having asserted a new cause of action, the next question is, was recovery under this petition barred by the Missouri statute of limitations? The general rule is, that an amendment relates back to the

time of the filing of the original petition, so that the running of the statute of limitations against the amendment is arrested thereby. But this rule, from its very reason, applies only to an amendment which does not create a new cause of action. The principle is, that, as the running of the statute is interrupted, by the suit and summons, so far as the cause of action then propounded is concerned, it interrupts as to all matters subsequently alleged, by way of amendment, which are part thereof. But where the cause of action relied upon, in an amendment, is different from that originally asserted, the reason of the rule ceased to exist, and hence the rule itself no longer applies."

In *Boston & Maine Railroad Company v. Hurd, 108 Fed., 116*, the United States Circuit Court of Appeals for the First Circuit says:

"The declaration in an action by an administrator in the New Hampshire Circuit Court stated a cause of action against a railroad company at common law for injuries to plaintiff's intestate, coupled, possibly, in view of the allegation of death, with some thought of the supplementary damages given by the New Hampshire statutes. By an amendment thereof it declared under Pub. St. Mass. c 112, 212, specially authorizing actions against railroads for wrongful death, and limiting actions thereunder to one year from the time of the injury. Held, that the amendment was a change of the ground of

action, constituting a departure, and that inasmuch as the one year limitation which followed the remedy under the Massachusetts statute had expired when the amendment was offered, the action was barred. Railway Co. v. Wyler, 158 U. S. 285."

In *Atlanta, K. & N. Ry. Co. v. Hooper, 92 Federal Reporter, 820*, the Circuit Court of Appeals for the Sixth Circuit, speaking through Taft, Circuit Judge, said:

"The sole question presented upon this record is whether, when an administrator, under the present Code of Tennessee, brings his suit to recover damages for the wrongful death of his intestate, and avers in his petition that he brings the suit for the benefit of one person as the intestate's next of kin, and subsequently substitutes in his declaration for that person the name of another as next of kin, this is a change of the cause of action, such that the statute of limitations runs to the date of the amendment." * * *

"The cause of action may, therefore, vary materially in the extent of the recovery, as it is brought for one or another beneficiary. The administrator, except where there is a widow or child, must bring the suit; but his suit for one beneficiary is a different suit from a suit by him for another. To change the beneficiary, under the statute, changes the suit, the amount of recovery, and states a new and different cause of action. In the

> light of this conclusion, the plea of the statute was good against the amendment herein when filed, and should have been sustained."

The pertinency of this latter decision to the facts of the instant case is apparent. For the acts of agents within the apparent scope of their authority, the jury might well have adopted one measure of damage. For the acts of the conspirators in furtherance of a conspiracy to commit murder, the jury might well have adopted another and more severe measure of damage.

The case, however, went to the jury on both causes of action—conspiracy and *respondeat superior*. It is not possible to determine upon what considerations the jury's conclusions were based. The verdict was a general verdict for $50,000.00.

The cause of action based upon conspiracy being barred by prescription, the verdict cannot stand, and should be reversed.

In *Southern Pacific v. Hamilton, 54 Federal, 468*, the Circuit Court of Appeals for the Ninth Circuit, McKenna, Circuit Judge, says:

> "A passenger refused to sign his railway ticket, thus violating its provisions, and rendering it void, and drew a pistol to resist an effort on the part of the conductor to eject him. He was afterwards arrested, on complaint of the railway company, and removed from the train, by a constable, who after such removal kept him in irons for 20 minutes before procuring a warrant. The passenger

was acquitted in a criminal prosecution wherein the railway company's agent swore to the complaint. In a suit by the passenger against the company the constable testified that he acted merely as a peace officer, and on information that a pistol had been drawn. Held, that an instruction that, if the company caused the arrest merely to eject the passenger from the train, the constable was its special agent for that purpose, for whose unnecessary violence the company would be responsible, was erroneous, since it failed to discriminate between the acts of the officer while removing the passenger, and afterwards; and where such passenger, having suffered no great bodily harm, recovers $44,000 for his injuries, the verdict, although reduced by the trial judge to $15,000, should be set aside, as influenced by the erroneous instruction, and a new trial ordered."

Following the principles of this decision the verdict of the jury in this case was obviously influenced by the testimony, charge of the Court and other proceedings on the conspiracy cause of action, and, therefore, a new trial should be ordered.

In *Lake Shore Railway Company v. Prentice, 147 U. S., 101-117*, the Supreme Court of the United States said:

"But the only fact which they (the jury) were required to find, in order to support a claim for punitive damages against the corporation, was that the conductor's illegal con-

duct was wanton and oppressive. For this error, as we cannot know how much of the verdict was intended by the jury as a compensation for the plaintiff's injury, and how much by way of punishing the corporation for an intent in which it had no part, the judgment must be reversed, and the case remanded to the Circuit Court, with directions to set aside the verdict, and to order a new trial."

REPLY TO THE ARGUMENT AND STATEMENTS IN PETITIONER'S BRIEF.

As this respondent was furnished with a copy of petitioner's brief only eight days before the probable date of the argument, it has been driven to the necessity of answering that brief as an addendum to this brief. The questions of law have all been handled in the main part of this brief. We will confine ourselves here to petitioner's statement of the facts and the arguments based thereon.

On page 7 of petitioner's brief, it is stated that:

"The refusal of the Great Southern Lumber Company to recognize the labor union and its opposition to the organization of the colored laborers into a union, created hostility between Lem Williams, his associates, the organizers of the labor union, both white and black, and the Great Southern Lumber Company. This hostility was manifested on several occasions. At one time, the electric lights and the water of the town, which was supplied by the machinery of the Great

Southern Lumber Company, were cut off for twenty-four hours, Williams and his associate labor union men having gotten the employees to abandon their posts.

"The Great Southern Lumber Company, by way of protecting itself against the members of the union, had erected a high board fence around its mill property and stationed machine guns inside, with armed men at the gates. It had a number of gunmen in its employ and among them was Wiley Magee (the man who led the mob and killed Williams). (R. 998-999). Such was the condition in Bogalusa on November 21, 1919, when a warrant was sworn out before the City Court of Bogalusa, charging Sol Dacus with being a dangerous and suspicious character, presumably under an ordinance of the city (which, however, was never produced in evidence) as there is no such offense known under the state statute, and a warrant was issued for his arrest and delivered to the Police Department." (R. 153).

This is all that the petitioner has said with regard to a condition of anarchy and lawlessness existing in the City of Bogalusa for a period of two months, during which riots and disorders occurred, men were shot, public officials intimidated, jail deliveries attempted, necessary public service cut off and a reign of terror inaugurated and maintained.

The only acts of aggression on the part of the Great Southern Lumber Company charged in this state-

ment are that it erected a high board fence around its mill and stationed a machine gun inside its property with armed men at its gates and that it had a number of gunmen in its employ, among them Wiley Magee who led the mob and killed Williams.

There is much said in the petition about gunmen but this record fails to show that the Great Southern Lumber Company had in its employ any gunmen. Wiley Magee, the man who it is stated led the mob and killed Williams, was and had been for some time a regular police officer of the City of Bogalusa, carried on its payroll as such, according to the testimony of Chief of Police, the City Clerk and the Commissioner of Public Safety, and he had not been in the employ of the Great Southern Lumber Company for many years.

The board fence around the company's property had been built in the Spring of 1919. The stationing of a machine gun inside the property and armed watchmen at the gates was certainly justified by the unlawful acts of Williams and his associates, particularly in intimidating the men engaged in running the electric light and water plant and, in fact, shooting one of them in their attempt to cause a cessation of these necessary services and generally in carrying on a campaign of lawlessness and terror in that community.

The statement is made on page 8 of petitioner's brief that the charge against Dacus had been maliciously made to intimidate him and the colored laborers and destroy all possibility of organizing a colored labor union by lodging their leader in jail.

This is a purely gratuitous presumption on the part of the petitioner and is not supported by any evidence. Dacus was summoned as a witness by plaintiff, a subpoena was issued for him and served, but he was never placed on the witness stand, although he was in attendance during the trial. When we recall that things had been quiet in Bogalusa for several weeks prior to the Dacus incident, it was manifestly the duty of plaintiff to produce Dacus as a witness in order that his connection with this unfortunate transaction might be shown. The warrant against Dacus was sworn out by H. H. Wilcox, a merchant of Bogalusa, who testified he was never at any time connected with the Great Southern Lumber Company. The evidence shows that no one connected with the Great Southern Lumber Company had any knowledge that any charge had been made against Dacus or that any officer or employee of the Great Southern Lumber Company had any connection with or relation to the making of that charge. It will be remembered that although Williams and his associates began in July to organize the company's labor, no disturbances of any kind occurred until the mill stopped operations as the result of a serious breakdown and that the resulting condition of idleness furnished the opportunity for the lawlessness and aggression on the part of Williams and his associates, with evidence of which this record teems. It is not even pretended that prior to the breakdown of the mill there were any troubles between the Company and its labor or the labor leaders.

It is stated on page 8 of petitioner's brief that

> "the evident purpose which Bouchillon and O'Rourke had in view (meaning their march

> on Columbia Road) was to restore confidence in Dacus and his colored laborers and counteract the effect of the malicious warrant which had been issued for the purpose of intimidating him and destroying the union."

This "evident purpose" is not shown or supported by anything in the record; it is an invention of the advocate's brain—an attempt to minimize the true cause of the trouble. On the contrary, Dunaway, summoned as a witness by plaintiff, but sworn as a witness for defendant, furnishes the only direct explanation of the motive which prompted the unlawful march. He testified that he was in Williams' office between nine and ten o'clock of that day and that Dacus was there; that Williams wanted some of the men there to go with Dacus to his house and protect him; that witness declined to do this and told Williams that if he were Williams he would telephone to the police and let them handle it; that O'Rourke and Bouchillon, armed with shotguns, went off with Dacus and that Williams told them, "If anyone tries to serve him, stay with him, stay with the old darky," and Bouchillon and O'Rourke replied, "We will stay with him." This evidence shows plainly that Williams proposed, with the force of armed men, to afford protection to Dacus from arrest. This testimony is uncontradicted. (R. 927-929, 934, 935).

There is no evidence in the record to show that the purpose of Bouchillon and O'Rourke was to restore confidence in Dacus and his colored laborers but, if that were their purpose, they certainly adopted unlawful means to accomplish their purpose. That they

were armed with shotguns is conceded and the Trial Court charged the jury that they were entitled to bear arms openly. In view of this now declared intention of Bouchillon and O'Rourke, it was certainly competent for the defendant to show the means which they adopted to accomplish the purpose and the unlawful nature and character of the march which provoked the trouble.

On page 8 of petitioner's brief, it is said:

> "These warrants of arrest were placed in the hands of Magee, not a regular police officer, but a special police officer, the Great Southern Lumber Company's noted gunman."

This often repeated statement is absolutely contradicted by the record. Magee was a police officer on the city's payroll (R. 550), and the Commissioner of Public Safety and the Chief of Police testified that they placed the warrants in his hands because he was a regular and paid police officer. (R. 550-584).

On page 9 of petitioner's brief, it is stated:

> "At one o'clock p. m. the siren whistle of the Great Southern Lumber Company, the whistle which was blown every day at six o'clock p. m., as a signal for the laborers to stop work, which also had been used in an emergency when there was a fire, was blown. There was, however, no fire, no emergency, no riot at that hour, but the defendant contends the whistle was blown as the result of an agreement with the Chief of Police and the officers of the Great Southern Lumber Com-

pany, to summon the special police officers, a posse, so called, to arrest Dacus, O'Rourke and Bouchillon."

This statement is absolutely unfounded and incorrect. There was no fire, it is true, but there was an emergency, an incitement to riot. The true facts were kept from the jury but this Court knows from the record that Bouchillon and O'Rourke, armed with shotguns, were parading the main street of the town defying the law and the officers of the law and threatening to protect Dacus against arrest with force of arms, if necessary, and that their mission in being there was to protect Dacus from arrest, as Williams told them when they left, "If anyone tries to serve him, stay with him, stay with the old darky."

The statement that this whistle was blown by agreement between the Chief of Police and the officers of the Great Southern Lumber Company to summon the posse to arrest Dacus, O'Rourke and Bouchillon is contrary to the undisputed facts in the record. There had been an understanding, made a number of weeks before the incident, between the Chief of Police and the Commissioner of Public Safety on the one hand, and the assistant manager of the Great Southern Lumber Company on the other hand, that the whistle might be used by the police authorities when occasion arose for the summoning of the special officers but there was no agreement that the whistle should be blown in this instance to summon the special officers to effect this particular arrest. Pursuant to the general understanding, the whistle had been blown on a previous occasion to summon the special officers and they responded and

suppressed an incipient riot but there was no understanding on that occasion or on the occasion when the warrants were issued that the whistle should be blown for these particular purposes.

The officers of the Great Southern Lumber Company knew nothing of the Dacus incident and they knew nothing of the Bouchillon-O'Rourke-Dacus march and the issuance of warrants for their arrest. These situations were handled exclusively by the police authorities and the statements in petitioner's brief are incorrect.

It is likewise stated on page 9 of petitioner's brief that Major Guerre, the superintendent of the plant, was in the posse and so was Paul LeBlanc, foreman, as well as Dr. Brister, superintendent of the company's hospital, Bob Carson, McElroy, Wiley Magee and George Townsend, sales manager, and many others who were not identified as employees of the company because the books of the company, which were called for by a *subpoena duces tecum* had been burned by the defendant company.

There is testimony that Major Guerre was at the shooting and that Paul LeBlanc was also there, as well as Dr. Brister. The latter denies that he was present and, in any event, the testimony shows conclusively that he was on the general staff of the hospital which was maintained and supported by all of the industries in Bogalusa as a general hospital and was not in the employ of the defendant. Bob Carson and others, see *supra*, deny that Carson was there but, in any event, the record shows that Bob Carson was not an employee

of the company, as the Court of Appeals found. Wiley Magee was a paid member of the police force. Some witnesses say Townsend was there, but Vice-President Sullivan says Townsend was playing golf with him. That plaintiff might possibly have been able to show that other employees were there if the company's payrolls had been produced at the trial does not justify the inference, as contended by plaintiff, that other employees were there. The company did not willfully destroy its payrolls, as shown by the return to the *subpoena duces tecum* (R. 63).

In that connection, the chronology of this case is interesting. The shooting took place November 22, 1919. The belated suit was filed November 6, 1920, about two weeks before the statute of limitation would have run. The case was at issue April 19, 1921, after various exceptions had been heard, maintained and overruled, etc. The *subpoena duces tecum* issued April 23, 1925. The trial began April 30, 1925.

On the return to the *subpoena duces tecum* (R. 62) the company showed that, in accordance with its long established practice, its payrolls were destroyed at the expiration of three years and that it was, therefore, unable to produce the payrolls called for. The company had no reason to assume that in destroying its old payrolls in accordance with a long established practice, it was destroying evidence which might be required by plaintiff and from the destruction of which an unfavorable presumption is now sought to be drawn. No large company can be expected to provide storage for a lot of ancient and worthless records, such as payrolls, and no unfavorable presumption can be drawn

from the establishment and following of a practice to destroy them periodically.

On page 11 of petitioner's brief, it is stated:

> "The mob immediately took possession of Williams' office and garage, stationed guards at the door and refused to allow anyone to come in and the preponderance of evidence is that they placed guns of their own on the floor next to the bodies of Williams, Bouchillon and Gaines in order to prove that the latter were ready to resist arrest. They carried these guns with them but they did not produce them in court on the trial of this cause."

These statements are not supported by the record. The mob did not take possession of Williams' office and garage. The Chief of Police testified (R. 552) that he arrived on the scene a few minutes after the shooting, the posse by arrangement between the Chief of Police and the Commissioner of Public Safety having been under command of the Commisisoner of Public Safety and that he took charge of the situation and placed the guards. The Chief of Police testifies as to the weapons and ammunition found and so do other witnesses. It is true that only one gun was produced at the trial, that gun bearing marks of having been through a shooting affray. The Coroner (R. 851) testified that he turned the guns over to the grand jury together with the inquest papers; evidently some of them were thereafter lost. Certainly the defendant cannot be charged with responsibility for not producing these guns and the positive testimony of witnesses

cannot be destroyed by failure to produce the guns. The company had no reason to assume that it would ever be called upon to defend a law suit and to produce these guns. This belated suit was filed nearly twelve months after the incident. The guns were not in the company's possession; they were in possession of the Court authorities. That Bouchillon and O'Rourke left Williams' office armed with shotguns, paraded Columbia Road armed with shotguns and were seen to enter Williams' office armed with shotguns is undisputed and conceded.

On page 11 of petitioner's brief, the Court is asked to draw an unfavorable inference from the fact that Mr. Sullivan, Vice-President of the company, was playing golf when the whistle blew; that he took no interest in the matter, made no inquiry as to why the alarm was sounded but calmly continued playing golf and that Mr. Sullivan did not protest against the blowing of the whistle nor the slaughter which it had caused but, on the contrary, by his silence and his conduct thereafter, after his return, approved and ratified what had been done.

The playing of golf at one o'clock on a Saturday afternoon (legal half-holiday) can hardly be regarded as a purpose to establish an alibi. Mr. Sullivan testified that, when he heard the whistle, he thought it was a fire and he went to the City Hall. It will be remembered that Mr. Sullivan had then only recently returned to Bogalusa. He was not there during the weeks of troublesome incidents which the record discloses. The request of the police authorities to make

use of the whistle was addressed to Assistant Manager Cassidy in the absence of Mr. Sullivan, and this whistle had never been blown for police purposes since Mr. Sullivan's return. Therefore, it is entirely reasonable that Mr. Sullivan should have assumed that there was no disturbance and his action in going from the golf links to the City Hall was entirely reasonable.

There was no occasion for Mr. Sullivan to protest against the blowing of the whistle or the alleged slaughter and he did not, by his silence and conduct, approve and ratify the same. He testified he knew nothing of the Dacus incident and likewise knew nothing of the Bouchillon-O'Rourke-Dacus march or warrants and no unfavorable presumption can or should be drawn from the fact that he was playing golf on a Saturday afternoon and, upon hearing the whistle, went to the City Hall. That is where any reasonable man would have gone, especially as we must bear in mind that for several weeks prior to the date of the shooting Bogalusa was quiet and there had been no disturbances.

On page 42 of petitioner's brief, it is stated:

> "That there was evidence tending to show that there was no personal animosity on the part of the members of the mob, nor of special police officers against Williams, but that the destruction of the labor union, both black and white, in Bogalusa, which was in the path of the Great Southern Lumber Company, was the only motive for the killing of Williams and the other labor leaders."

It is true that there was evidence to show that there was no personal animosity on the part of anybody to Williams, but this record is bereft of any evidence tending to show, or from which any inference can be drawn, that the motive for the killing of Williams sprung from the company's desire to destroy organized labor. The record shows that before and after the killing of Williams there were large numbers of union men in the employ of the company.

On page 43 of petitioner's brief, it is stated that Judge Dawkins said:

> "That the Self-Preservation and Loyalty League had as one of its purposes, acquiesced in by the defendant lumber company and participated in by some of its employees, the promoting of the stand taken by the defendant company in its dealings with the labor union."

This statement by Judge Dawkins finds no support in the record. We challenged our opponent in the Circuit Court of Appeals, as we challenge them here, to point to any evidence which supports this statement or from which any inference in support of it can be drawn.

The Self-Preservation and Loyalty League was organized by the substantial citizens of Bogalusa to protect themselves, their families and their homes in a reign of terror that had been established by Williams and his associates. The company had no part in the organization of the league, nor in any of its activities. Its officers and its employees were expressly excluded

from membership in the league, as were all members of the union.

Judge Dawkins did not preside at the trial of this cause. After the verdict, a motion for new trial was made and argued before Judge Beattie. He had the matter under advisement for months and died before passing on the motion. Judge Dawkins heard the motion after Judge Beattie's death and overruled the motion in April, 1926, nearly one year after the verdict was rendered. The inference drawn by Judge Dawkins from the voluminous typewritten record was contrary to the facts found and inferences drawn by the three Judges of the Circuit Court of Appeals. That Judge Beattie who presided at the trial had doubts concerning the verdict may reasonably be assumed from the fact that he held the case under advisement for a number of months.

If we accept at full value all of the erroneous statements and conclusions in petitioner's brief, there is no evidence to show that the Great Southern Lumber Company, its officers and agents, participated in any conspiracy to kill Williams or killed Williams while acting within the scope of their employment as officers and agents of the defendant company.

There is no evidence in this record to show, or from which any inference can be drawn, that the defendant company desired to eliminate Williams from the labor situation in Bogalusa and that that desire furnished the motive for the shooting of Williams. On the contrary, the record abounds in proof that the company had no part in this unfortunate occurrence and

that the shooting of Williams, after several weeks of calm and quiet, was the direct result of the provocative acts of Bouchillon, O'Rourke and Dacus by public officers charged with the enforcement of law. The trouble was between Williams and his associates on the one hand and the people and the authorities on the other hand. No property of the company was threatened. No business of the company was menaced. The Columbia Road incident took place nearly a mile from the company's property. No employee of the company, if any, who took part in the shooting, had any reason to assume that he was engaged in the discharge of the duties of his employment and that he was entitled to bind the company by his act. If any employee took part, it was a personal adventure on his part, totally disassociated from and disconnected with any interest or business of the company.

Plaintiff must establish her case by facts and the fair and reasonable inferences to be drawn therefrom.

Petitioner argues (Brief, page 30) that because the Circuit Court of Appeals remanded the case on technical grounds relating to the admission and rejection of evidence, it thereby indicated that the District Court did not err in denying a motion for a directed verdict. It is difficult to follow the process of reasoning by which this conclusion is reached in view of the very specific language of the Court of Appeals in its opinion. The Court definitely held that the error in excluding competent evidence and in admitting incompetent evidence prejudiced the defendant and required a reversal of the judgment. The Court then stated that there was no evidence in this record establishing a con-

spiracy or showing that any employee of the defendant, who may have been present at the shooting, acted within the scope of his authority. If the Circuit Court of Appeals had reversed the case on the ground that the motion to direct a verdict should have been granted, the case might well have come back to the Circuit Court of Appeals, after another trial, with material evidence again excluded and incompetent evidence again admitted. The Court, having found that prejudicial error resulted from the admission and exclusion of evidence requiring a reversal, then observed that, on this record, the motion to direct should have been sustained, but as the record next time might be different, it was obviously unnecessary to reverse on the specific ground that the motion to direct should have been granted. All that the Circuit Court of Appeals could do was to order a new trial, and that it has done.

Petitioner also argues (Brief, page 39) that counsel for defendant were evidently of the same opinion (whatever that means) since at the close of plaintiff's evidence, they did not request a directed verdict, but, on the contrary, introduced numerous witnesses.

There is, so far as we know, no penalty attaching to awaiting the conclusion of all the evidence before moving to direct the verdict. The blowing of the siren whistle, so strongly relied upon by plaintiff, was unexplained in plaintiff's testimony. Defendant's testimony unqualifiedly exculpated defendant from any responsibility for that act.

At the conclusion of plaintiff's testimony, there was no evidence of the Bouchillon-O'Rourke-Dacus in-

cident and, therefore, no explanation of the reason for summoning the posse and no evidence that any warrants had been issued for the arrest of Bouchillon, O'Rourke or Dacus. At the conclusion of plaintiff's evidence, there was nothing to indicate that the Self-Preservation and Loyalty League had been organized and why it had been organized. There was no evidence tending to show the lawlessness that existed in Bogalusa during the period in question. All of these facts were developed in defendant's testimony. They stand uncontradicted on the record. Therefore, at the conclusion of the case, defendant properly moved for a directed verdict and the District Court should have granted that motion as the Court of Appeals in effect held.

SUMMARY.

(1) The Circuit Court of Appeals was correct in ordering a new trial on the ground that competent and material evidence was excluded and incompetent evidence was admitted and that injury and prejudice to the defendant resulted in both instances;

(2) The Circuit Court of Appeals was correct in holding that there was no evidence in this record to show that this defendant participated in any conspiracy or that Williams was killed by agents of the defendant acting within the scope of their authority;

(3) The Circuit Court of Appeals and the District Court should have held that the action in behalf of the minor was barred by prescription (limitation) and that the cause of action based upon a conspiracy was barred by prescription both as to the claims of the widow and the minor;

(4) Accordingly, the judgment of the Circuit Court of Appeals should be amended by dismissing the suit on behalf of the minor and dismissing the cause of action of the widow, based on an alleged conspiracy and, as amended, should be affirmed.

Respectfully submitted,

H. GENERES DUFOUR,
B. M. MILLER,
DELOS R. JOHNSON,
Attorneys for Respondent.

February, 1928.

MAR 2
CHARLES ELMORE

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1927.

No. 252

MRS. L. E. WILLIAMS, INDIVIDUALLY AND AS NATURAL TUTRIX OF HER MINOR SON, JOHN EARL WILLIAMS, PETITIONER,

versus

GREAT SOUTHERN LUMBER COMPANY, RESPONDENT.

MEMORANDUM (Supplemental) ON BEHALF OF RESPONDENT.

The testimony of Mrs. Williams as to Carson's statement (original brief, page 36) will be found in the record beginning at the top of page 480 through to page 485.

The action of the trial court in excluding the testimony of Chief of Police Magee as to the report made

to him by Patrolman Flournoy in respect to the circumstances attending the Bouchillon-O'Rourke-Dacus march will be found in the record, pages 528, 529 and 537.

The action of the trial court in excluding the testimony of Patrolman Flournoy as to what Bouchillon, O'Rourke and Dacus were doing and saying in their march and what he reported to the chief of police will be found in the record at pages 500, 501, 502 and 525.

Referring further to the latter action, although Flournoy stated (R., 501) that he knew there was a warrant out for the arrest of Dacus and attempted to state why he did not arrest Dacus, the trial court, on objection to the testimony by plaintiff's counsel, said (R., 502): "It is not shown that this witness had a warrant for Dacus' arrest. Why he didn't arrest Dacus or not is immaterial. I sustain the objection." Exception reserved.

Respectfully submitted,

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